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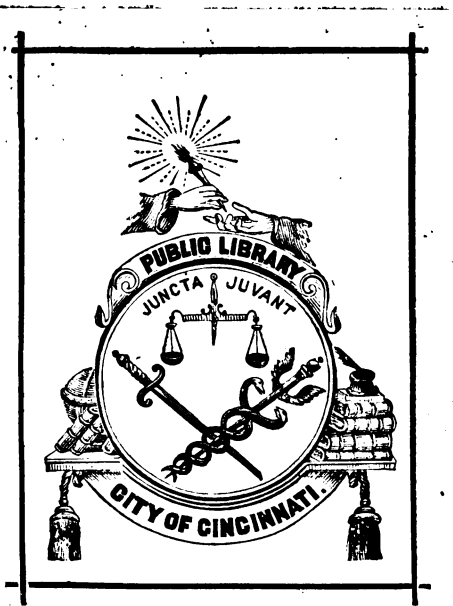
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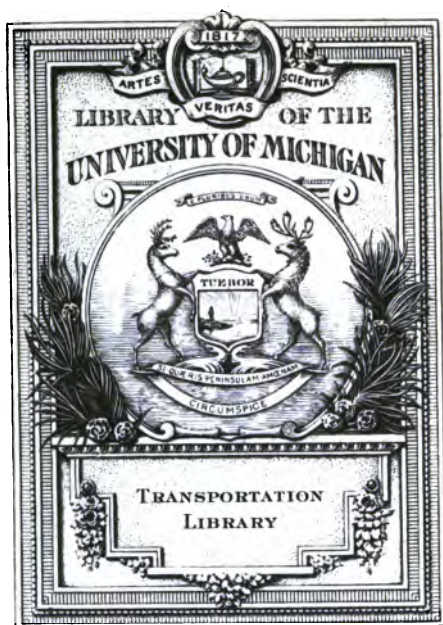


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**SPEECHES AND REPORTS**

IN THE

**ASSEMBLY OF NEW-YORK,**

AT THE

**ANNUAL SESSION OF 1838.**

*copy*  
By **DANIEL D<sup>r</sup> BARNARD.**

*5*  
**MECHANICS' INSTITUTE.**

**ALBANY:**

**PUBLISHED BY OLIVER STEELE,  
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**1838.**

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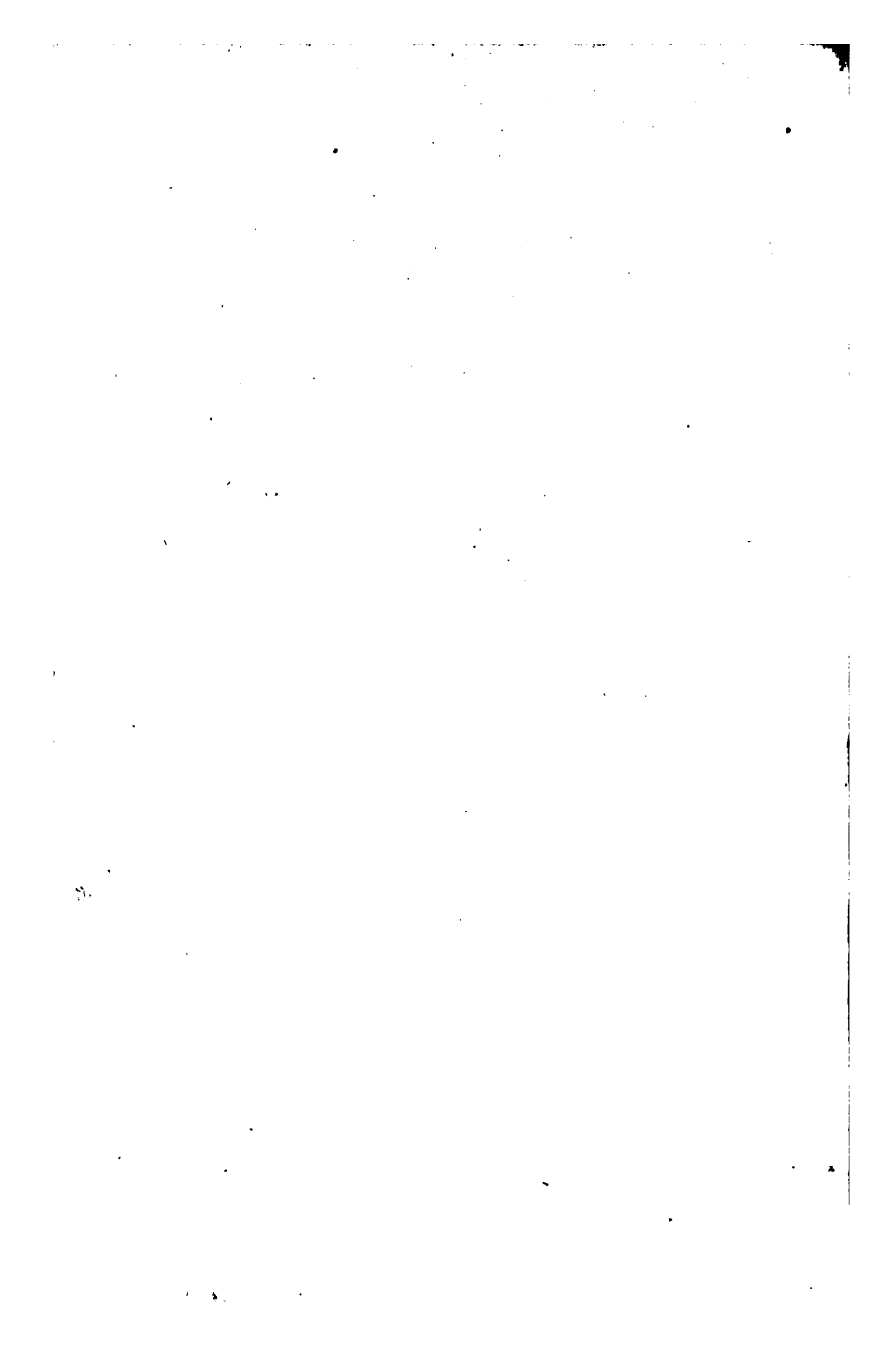
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Sen. Rep. Ser  
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## INTRODUCTION.

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THE Legislature of the State of New-York, elected in the fall of 1837, convened at Albany, in January, 1838, under circumstances of no common interest. The opinion of the people, as expressed through the ballot box, was shown to be in decided disapproval of the course and policy avowed by the Administration of the National Government. This was evinced by the election of a large majority of members of the Assembly, and three-fourths of the candidates for the Senate, from the party opposed to the declared policy of the government. As the executive officers of the State were intimately linked in, and connected, as partizan approvers, with the opinions of the national cabinet, the popular election referred to, may, with equal fairness, be deemed a rebuke of them, in common with their coadjutors at Washington city. In this state of things, the assemblage of a Legislature composed of a majority in

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opposition, on joint ballot, to the State and General Governments, commanded the public attention in no ordinary degree. The more particularly, as the topics which would naturally be presented for their deliberation were of unusual weight and importance.

The suspension of specie payments by the banks of this State—no matter by whom caused, or by whom sanctioned—inflicted an almost intolerable inconvenience upon the people, from the consequent scarcity of silver coin. As the laws prohibited the emission of small notes by our State banks, the people were of necessity subjected to an influx of depreciated paper money from foreign States, which circulated from hand to hand by common consent, in despite of the ineffectual laws which had been enacted to restrain them. This state of things forced the general conviction upon the public mind, that it was the wisest policy to return to our ancient system, and allow our banks to furnish a better small-note currency, than that which then filled the lower channels of business. Upon this conviction the Legislature acted, and their measures were followed by the general relief, from a depreciated currency of which the people, in the main, knew nothing, and the necessity of practically proclaiming the law which prohibited it, to be a dead letter.

At an early period of the session a memorial of a most unexpected and extraordinary character was pre-

sented to the Assembly. It prayed neither more nor less, than that the Legislature would enact a law to prohibit the practice of praying, singing, reading the Bible, and other religious exercises in such schools, academies, and seminaries of education, as receive aid from the public treasury. This subject, of so much importance to the substantial welfare of the youth of the State, and the perpetuity of its institutions, was referred to the Committee on Colleges, Academies and Common Schools. The report of that Committee, confining its views, with great strictness, to the question in a solely political light, demonstrated with much delicacy and forbearance, and yet with sufficient strength, the fallacy of that theory which forebodes an infringement of republican liberty as inseparable from a general reading of the Holy Scriptures. The action of the Assembly, subsequent to the production of this Report, was all but unanimous, in adopting the recommendation of the Committee, viz: "that the prayer of the memorialists be *not* granted." It is sufficient for the merit of this Report, to say that it has not only been received with commendation in this State, but it has commanded for itself an extensive circulation and reprint in other States.

The introduction to the Assembly of a Bill to incorporate the Cold Spring Whaling Company, though in itself of limited public interest, became of importance in consequence of the discussion which it drew out, bear-

ing upon great abstract questions. Among them was one as to the propriety of subjecting Corporators to personal responsibility for the debts of corporations. The negative ground is strongly taken in a speech contained in the present volume, which, as an exposition of an important principle, it has been deemed expedient to retain in a more enduring shape than the columns of a newspaper.

When the Executive of the United States summoned Congress to an extra session, in September, 1837, he promulgated to them, in his special message, an entire new theory as to the future management of the public money, and the reciprocal duties between the government and the people. He proposed an entire abandonment of what, up to his time, had been considered an essential power and duty of the government, enjoined by the constitution, and suggested instead, a system of individual receivers and custodians of the public moneys, subject generally to the supervision and control of the President. This, which soon became known as "*The Sub-Treasury Scheme*," was received with signal disfavor by the people at large, of both parties. So unconstitutional was its character and fallacious its logic considered in this State, that resolutions were introduced into the House of Assembly, condemnatory of its principles and policy. The introduction of these resolutions called out the able and searching examination of this

Rec. Harrison's proposal of  
the Treasury Scheme  
Dec. 1843 p. 30. Beginning  
of the Sub-Treasury Scheme.



leading executive measure, which will be found in the succeeding pages.

In addition to the report on the memorial against the use of Bibles, the Committee on Colleges, &c. made a report to the House on that part of the Governor's message which relates to Public Instruction. This report enforced upon the Legislature, with much clearness of logic and strength of eloquence, the duty, eminent and obligatory, of providing for the education of the poor—of enlarging the field of intellectual action—and of securing to the young the means of cultivating the nobler powers and the purer virtues. It was received with the due appreciation to which it was entitled, both in and out of the House.

Upon the important subject of Internal Improvements the House had the good fortune to be highly gratified, and it may be added instructed, by a most luminous and comprehensive Report, from the pen of Mr. Ruggles of New-York, chairman of the Committee on that subject. Of the superior ability, thought, and forecast of this Report it is not necessary here to speak. The people have pronounced upon it in a language not to be misunderstood. Some remarks connected with the subject are contained in the succeeding volume, which present some important principles, worthy of the consideration of the reader.

The growing distrust, throughout the country, of the existing system of bank charters, attributable, in the

*Read Sparks's edition of  
Washington's Works Vol. 3 p. 121 231  
Letter to the President*

main, to the destructive efforts directed against one institution by a late public functionary, was increased to a high degree by the general derangement affecting all classes of industry, consequent upon the suspension of specie payments. There was obviously a determination in the public mind to interpose some remedial legislation, between the action of bank corporations, and the people at large. It was contended, that as these institutions were only willing to lend freely when money was plenty and people did not want it, and were obdurate in refusing when it was scarce, and their refusal produced an added pressure, that their real utility was much lessened, and that their privileges were in fact monopolies, the benefits of which, at seasons of calamity, enured only to the few. The mode of relief proposed was by a repeal of the restraining law, and enacting a General Banking Law, allowing the privilege of banking to *all*, under certain restrictions. This discussion called up the whole subject of banking, and the true principles involved therein. The speech at the close of the volume discusses and examines these in detail, and enforces upon the attention of the reader some cardinal principles, which are not always reverted to, even by reputed statesmen of experience, when legislating upon this intricate and important subject.

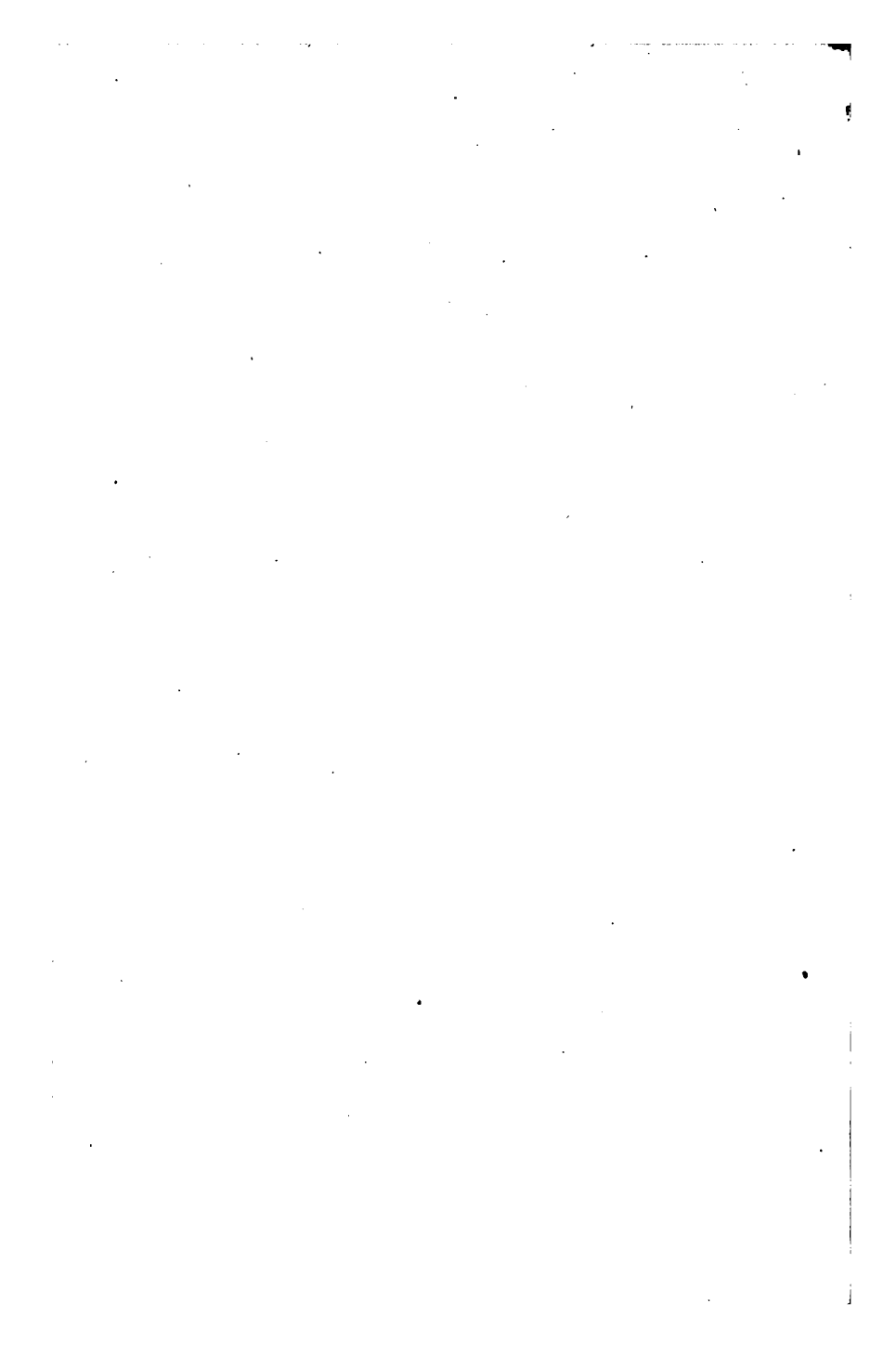
The speeches and reports of this volume are from the pen of D. D. Barnard, now member of the Assembly

from the city of Albany. It but remains for the Editor to say, that they were collected by him, and put forth by him, at the instance of friends, who, in common with himself, appreciated the sentiments advanced, and the principles maintained by Mr. Barnard during the winter of 1838. They esteemed these sentiments and principles as possessing too much of permanent interest to be lost, (in some sense,) in the ephemeral columns of the daily press. It was resolved, with the author's consent, to combine them in their present more enduring shape, and the newspapers in which they had appeared were accordingly gathered, and placed in the hands of the book compositor. The result is before the public; and if passages of the volume do not often charm the desultory reader by their eloquence, or instruct by their inculcation of sound principles, the book will still be valuable as a book of reference for the important topics discussed in the New-York Legislature of 1838.

J. B. V. S.

*Albany, June, 1838.*

*Recd J. B. V. S. Compendium  
of the 1st Session of the  
Legislature*



## SPEECH

ON THE BILL TO REPEAL THE LAW PROHIBITING THE  
CIRCULATION OF SMALL BANK NOTES; DELIVERED IN  
THE ASSEMBLY OF NEW-YORK, JAN. 9, 1838.

MR. CHAIRMAN—The bill before us involves some principles which I regard as of considerable importance, and in relation to which I desire personally to be understood. I shall, therefore, with the indulgence of the committee, undertake to present my views of the real merits of the measure under debate.

And if the true merits of the bill only had been brought under review and discussion, my remarks would be confined strictly to those merits; but the debate has taken a wider range under the lead of gentlemen who have thought it to be their duty to oppose the bill; and I may deem it necessary, before I close, as other gentlemen have done, to notice, I hope not at much length, the position in which the opponents of this measure have chosen to place themselves before the committee, and before the public.

Before proceeding, however, with the discussion, according to the views now indicated, I beg leave to offer a general remark or two, not inappropriate I hope, at this early stage of the session.

On this, and on all subjects of any considerable importance, coming before us for action, I am in favor of discussion. The truth was never injured any where by full and free discussion. It is the way, and the only way, in which truth is shown to be mighty, and in which it comes eventually always to prevail. This is the only way in which error can be successfully assailed and beaten down. Falsehood is generally as good as fact—naked theory as good as a philosophical induction—and a mere sophism as forcible as a sound argument—until the right is presented and the wrong exposed. But I am in favor of legislative discussion, sir, above discussion in almost every other mode. I think its value is not generally understood. Even favorite and popular measures, concerning which there is apt to be so much impatient demand for action, are none the worse for being thoroughly discussed. If this course were taken more generally than it is, I am satisfied that legislation in republican governments would be less liable than it now is to the charge of capriciousness, and want of steadiness and consistency. It is in the nature of things, that large communities of men should act, more or less, from impulse; but it is the duty of legislative bodies to act as little from impulse, and as much from principle and reason, as possible. One way of securing this advantage is, to deliberate, and to discuss.

The very measure before us, in its history, is, to some extent, an apt illustration of the manner in which a community may at different periods, be swayed, first forward, and then backward, on the same subject. It is useless to deny, that no longer than three years ago, there was a current of popular sentiment in this state,

setting in favor of the suppression of small bank bills, though, because as I think that sentiment was wrong, it was by no means as strong as it was made to appear to be, and not half as strong as that which now demands the repeal of the law. As a legislative measure, that law was not carried by the votes of any party. Men of all parties, not all men of all parties, but men of all parties aided in its passage—many of whom, in common with those whom they represented, have now become satisfied that the measure was erroneous, and desire to see it changed.

I mention this fact only to show the tendency of things with us, and to derive from it, as I think by a just inference, the importance of ample deliberation and discussion on all questions coming up for legislative action, in regard to the policy of which doubts may reasonably be entertained.

I profess to entertain great confidence in the opinions of the people as quite likely to be right, provided only a fair opportunity be afforded them to form and mature their judgments. And at the same time, I recognize the possibility of their being quite wrong, even though quite unanimous, when led by demagogues, and acting only from impulse, or from passion. I hold it to be the imperious duty of every member on this floor, who feels himself capable of doing so, to aid, to the extent of his powers, in the development and elucidation of all subjects of general importance presented before us. In this way we may add energy to our own powers of thought and comprehension; we may enlighten each other, and we may aid most materially, through the public audiences with which we are favored, and through the re-

ports that are made of us, in giving a just direction to public sentiment. In this way, if fortunate and faithful, we may be continually opening new fountains of light on subjects of public interest, and digging deeper and deeper the wells of clear and unadulterated truth.

It is evident, however, that to secure the best benefits of discussion, it should be thorough and full. We shall do little towards fathoming the deep waters that may chance to lie beneath us, if we are content with sporting ourselves on the frozen surface of subjects only. We must take care to examine each others positions here, each others opinions, doctrines and arguments, and we must be faithful to expose them where we believe them to be wrong, and where they tend, as we think, to mischief. This, I give gentlemen fair notice, shall be my course, pursuing it I trust with perfect courtesy, and the kindest regard for the persons and feelings of those, of whatever political faith, with whom I have the gratification to be associated on this floor, and never indulging in crimination or severity, but when the case shall seem imperatively to demand it; and while I thus avow my own course towards others, I invite others to do by me in this regard, as I declare it to be my purpose to do by them.

We have before us, Mr. Chairman, a bill, the object of which to restore to this community a bank-note currency, to be furnished by our own banks, of convenient denominations for the common and smaller business transactions of life. A brief history of past legislative action on this subject will not be out of place. In 1830 a law was passed, prohibiting the circulation in this state of the notes of banks out of the state, of a denomination



less than five dollars. This law was wholly ineffectual. It was scarcely noticed, much less obeyed. The object was, I suppose, two fold; it was to get rid of a circulation which was too far from the place of redemption to be entirely sound, which was often spurious and generally suspected; and to clear the channels which that circulation occupied, in order that they might be filled with the better-known and healthier issues of our own banks. The law was, however, as I have said, without effect.

In 1835, a policy, entirely new I think in this state, was proposed. It was an experiment on the currency, though one which certainly found more favor with the public generally than some other experiments on the same subject. A law was passed designed to enforce obedience to the provisions of the act of 1830 in regard to foreign bank notes, and at the same time forbidding the issue and circulation of domestic notes of a similar description. This law was effective, and we ceased to have a general bank-note currency in this state, except of denominations of five dollars and upwards. This occurred, by the provisions of the act, in the fall of 1836. The operation of the law, according to my observation, was never, from the first, deemed to be either convenient or beneficial by any class in the community. Undoubtedly, there were individuals in every class with whom the measure was a favorite one.

The law of 1835 had been in effective operation perhaps a little more than six months, when the unhappy suspension of specie payments by the banks took place. This event, of course, changed the aspect of things entirely, and what might have been a good currency measure before that occurrence, was not unlikely to prove a

disastrous one after it. The legislature of this state was in session when that event happened; and while it recognized by law, with great unanimity, the necessities which had driven the banks to suspension, it refused, in its wisdom, to entertain a proposition for the restoration of a small bank-note currency to be issued by the banks of this state. The consequence of this refusal was just what should have been, and was expected. The state has been flooded with the small paper issues of banks in other states, forming, in fact, the only currency of that description in use amongst us; a currency of a considerable part of which even the genuineness is justly doubted, much of which is discredited for soundness, and all of which is, at this time, greatly depreciated as compared with our own bank paper.

It is now proposed, by the bill before us, to return again in this state, unconditionally, to the use of a small-note currency to be furnished by our own banks; and from the brief recital now made, it will be seen that this measure presents itself to us in two aspects. In one, we may regard it as a measure of temporary relief, designed to afford a remedy for a temporary and pressing evil; in the other aspect, it involves the serious and important question, whether it be the true policy of this state, as a settled and permanent measure, to supply to the community a bank-note currency, rather than an exclusive specie currency, for business requiring money of a denomination over one and under five dollars? I am in favor of the bill on both grounds; as a measure of temporary relief, and also as a measure of sound policy for all time to come.

Considered as a measure of immediate relief, I hold

it to be the imperative duty of the legislature to pass the bill, and to pass it as promptly as is at all consistent with due deliberation. Sir, what was the condition of things in this state in regard to the currency, when the banks had suspended specie payments? And what was the duty of the legislature, then in session, on the subject? Why, sir, this community presented the extraordinary spectacle of a people actually without a legal currency, of any description, for all its business requiring money under five dollars. The instant the suspension occurred, the metals ceased to circulate. They ceased to be the practical measure of value, and by necessity they ceased to be capable of use as the common medium of exchange. They bore at once a heavy premium, as compared with that which alone filled the channels of circulation as money; and they became an article of trade. When the banks suspended payments in specie, the necessary effect was, as it always has been and always will be in like cases, that the whole community followed the example, and suspended payments in specie likewise. In such cases, foreign commercial balances may still be paid in specie; but domestic commercial balances generally, and nearly all the ordinary payments and exchanges are made not only without specie, but without any more regard to it than if it had been still in the mines. With the suspension in May last, specie ceased to be money, because it ceased to possess the peculiar attributes which alone fit it for the uses of money. It was still nominally the legal currency of the whole country, but the common use of it as such, either in making present exchanges, or in the performance of contracts, was at once suspended by universal consent, except only in cases where legal

coercion was resorted to ; and to this the banks were liable as well as individuals.

Now with specie withdrawn from circulation, what was the community to do, without legislative aid ? By the laws of trade, metal had ceased to be money, and by our own statute law, applicable to small bills, the use of a paper substitute was so far forbidden. Our own banks could not furnish it under pain of a forfeiture of their charters, and to offer in payment a small note of a foreign bank subjected the offender to a heavy fine. And that, at such a time, with such a condition of things and such a state of the law, a legislature should have actually been in session, a legislature claiming to represent an intelligent community, nay, claiming itself to be both intelligent and honest, and yet that that legislature, with the whole subject before it and pressed on its attention, should have utterly refused any action whatever upon it—all this I confess almost passes belief. Sir, conceive of a people numbering two millions—an industrious people—an enterprising people—a trading people—literally without an authorized currency for the daily and common transactions of life ! And such was this people—specie withdrawn, and paper refused, and nothing remaining but to come down to a condition of barter, in obedience to law, or to defy the government, and seize a currency of some sort, or of any sort, wherever it was to be found.

Sir, as money is a primary want of a civilized community, so I hold it to be the first duty of government to see that that want is supplied. Since the period of the first introduction of the precious metals for general use as money, it does not occur to me, that any go-

vernment, in any part of the civilized and trading world, has thought it could safely leave the subject of its currency to take care of itself; much less has any such government ever ventured so to decree or legislate, as that a whole people should be effectually denied the use of a currency, whether for larger or smaller transactions, unless in defiance of a highly penal enactment. It is, in this enlightened age, and in this enlightened and happy country, that the first example of the sort has been set. And I charge it on the last legislature of this state, and on that party in the state, whose will it came here to perform; that I can recall to mind no parallel for that gross neglect of the performance of legislative obligation of which that body was guilty, when it refused, after the suspension of specie payments, and its own sanction of that measure as unavoidable, to provide for the people of this state a currency of small bank bills. I charge it on the administration then in full power, that it was guilty of a gross dereliction of duty in this matter, equally without precedent and without excuse. That administration deliberately refused to supply to this community a currency of denominations below five dollars, and at the same time forbid the free citizens of this state, under severe penalties, to supply themselves with such a currency, exhibiting at once a mingled folly and recklessness which it is difficult to contemplate without indignation.

Sir, such was not the conduct of that sagacious statesman, Mr. Pitt, on a like occasion, notwithstanding the prophetic warning given him by Mr. Burke, to which allusion has been made in the course of this debate. Mr. Burke, then, I think, at Bath, and laboring under

*The end of the world is near*  
*Chas. D. Smith*

his last illness, and evidently looking at the subject, as certainly was *not* his manner when he was in the vigor of his age, in a single point of view, desired his correspondent to tell the minister from him, that if he allowed the Bank of England to issue one pound notes he would never see a guinea again. The law of currency, to which that remarkable man referred, was as certain in its operation as the fact was then unimportant; and the advice was disregarded by Mr. Pitt, as it should have been. For thirty years previous to this time the bank had been permitted to issue no notes of a denomination less than five pounds. But the condition of things was now changed. After a struggle, which had lasted for several years, the government determined that the bank ought to yield, and it was directed to refuse payments in specie. This was in 1797; but the government did not, by an arbitrary decree, leave the country without a currency of small money. The bank was authorized to issue small notes, and although it resumed in 1821, yet it was not, I believe, till 1829, that all notes under £5 ceased to circulate.

And now, Mr. Chairman, if it was the duty of the legislature in session when the suspension in this country occurred last spring, to have promptly provided for a due supply of small notes for circulation from our own banks, is it any the less the duty of the legislature to do, at this time, what ought by all means to have been then done? It is true, the remedy comes late, but its necessity is scarcely less imperative than it was at the moment of suspension. That suspension still continues, and is legalized yet for four months to come. So long as the suspension shall continue, so long will specie bear

a premium. And though that premium is greatly lessened, yet it is still enough, and will continue to be enough, effectually to forbid its use as a common medium of exchange. In the mean time, the law prohibiting the issue of small notes by our own banks, and the circulation of such notes from any banks, keeps its place in the statute book; and it is just as true now as it was when the suspension began, that this great community is wholly without a currency of small money provided by law; and not only so, that it is utterly forbidden, by positive and penal enactment, to supply itself with the only currency of the sort possible to be brought into use.

The occasion for the interposition of the legislature still remains, and in my judgment, we shall be wanting in the discharge of our public duty, if we fail to grant to the community the proper relief. This duty on our part, is made the more indispensable from the unhappy position which the people have been compelled to occupy towards the law, and the public authorities of the state. They stand in an attitude of open and avowed resistance to authority; a state of things at war with both law and morals, and tending to the destruction of all that is stable, and all that is valuable in civil society.

The policy to which I have referred, and which refused to unlock our own banks for the needed supply of small bills, led of course to the immediate introduction of foreign notes. This borrowed currency was brought in at a premium, and if it ever goes out, it must go out at a discount. We have paid for importing it, we pay, as we should, for the use of it, and we must finally pay for sending it home. It is believed that there may be at this time not less than three millions of this paper afloat

*Premium 1. 1/2 per cent. on the face of the notes.*  
*How can a dollar be made to pass for more than one dollar?*  
*How can a dollar be made to pass for more than one dollar?*

in this state. It is here for use at a great and constantly increasing expense, and what is worse, it is here in defiance of all legal authority. Much of it is without doubt spurious ; some of it the issues of banks of doubtful credit ; and all of it at a heavy discount, not merely as compared with specie, but as compared with our own bank paper. I regard it as an indispensable obligation resting on us, to do what lies in our power, at least to put the community in possession of something which can be legally used as a currency ; and thus by frankly confessing the enormous errors of past legislation, under which the citizen was driven into hostility to the law, open the way for restoring to him his rights, and at the same time bringing him back to a condition of obedience to public authority. It was one of the worst acts of tyranny, to force the community into the use of this foreign paper, and it is only an act of sheer justice, with our earliest opportunity, to relieve the public of the necessity of continuing to employ it.

It is mainly on the ground which I have now explained, that I choose to rest my opinion of the importance of passing this bill, as a measure of temporary relief. There are, however, some other very important considerations which ought to have great weight with us. One of these, and the only one to which I can now refer, is the valuable aid which the issuing of small bills will give the banks, towards bringing about a speedy and safe resumption of specie payments. It is easy enough to see the operation of the measure in this respect, and hardly needs, or would justify, any elaborate explanation. That such would be its effect, seems to be undisputed in every quarter, and an argument, there-



fore, to justify such an expectation from it, might well be regarded as out of place at the present time.

It will be observed, that the bill makes no attempt to limit the amount of issues, which the banks may make of small notes. The sum of their issues is already restrained by law, and beyond that limit they will of course be unable to go. Whether they shall take the occasion of the permissive authority of this bill to come up to that limit, or in any the least degree to increase the present sum of their issues, so long as the suspension lasts, must depend upon themselves. I am disposed to trust them, and leave them to act upon their own responsibilities. I do not believe that, in the present condition of things, they will increase their issues materially by reason of this bill. Their policy has been, and is, a settled one. They have been, and are, steadily strengthening themselves for the period of resumption. This they do by curtailment; and severe as the operation is on the community, I think their safety consists in a firm adherence to this line of policy—especially if they are to be left, as present appearances seem to indicate, and as I think will be their duty, if that course is forced upon them, to return to specie payments without the consent or co-operation of their neighbors. I hope, and I believe, that our banks will resume within the period of indulgence now allowed by law. Every thing so far has shown a settled determination on their part not to pretract the time—the disposition is not wanting—I believe they will have the ability—and in addition to all this, there is a force pressing on them from the community, and of which there is evidence enough in all quarters of this representative body, which they cannot but

know it would be mere madness in them to encounter or resist, even if they had the disposition to do so. On the whole, therefore, I agree with the gentleman who has introduced this bill, that the simplest form in which the authority to issue small bills, can be restored to the banks, is the best form. As a general practice, while the suspension lasts, they will put out small bills only when they can make them take the place of their own bills of larger denominations now in circulation; and if this prudent course be at all departed from, we may, I think, safely calculate, that it will be only on the part of those banks which, from the secure footing on which they have already placed themselves, look forward to the conflict which the act of resumption is nearly certain to bring upon them, with calmness and with confidence.

But, sir, this bill would by no means satisfy me if it did not look to a return to the former policy of this state, in regard to a small bank-note currency *as a permanent and established measure*. For one, I was never satisfied with the change, and I have never from the first moment of its introduction, seen any evidence to convince me that the community at large was satisfied with it. Quite the contrary. It has at all times been productive of great inconvenience; it has greatly impeded instead of facilitating business; and it has unhappily obstructed the circulation of cheap knowledge in a popular form by cutting off the usual means of making small remittances, and enhancing the cost of collections. This of itself is a great evil, and is only to be compensated for by some capital advantage, such as I have yet to learn ever has been, or ever can be realized from the

policy of excluding small bills. Although men of all parties, and many men for whose opinions I entertain the highest respect, have, at times, favored this policy, still I hope it may not be deemed arrogance in me to say, that I am impressed with the conviction that it was advocated and adopted, so far as it was adopted at all, without all that thorough examination which was demanded from its importance and its various bearings.

My own ideas of this policy, and which will of course be taken for just what they may be worth, may be easily explained. I suppose it to be entirely settled that the currency of this country is to consist principally of paper, and not of specie. No man of any reputation at this day *openly* advocates the expulsion of bank paper. The "constitutional currency" has been talked about, and there have been those, high in place too, who have thought fit to intimate that the time was at hand, when this nation would, as it ought, adopt the use of the precious metals as the only medium of exchanges. These persons have met with a rebuke, however, which has driven them to abandon their ground, or at least to cover their offensive position behind all sorts of explanations and excuses. It may, I suppose, be set down as certain, that no community, at all advanced in civilization and refinement, especially if it be a free community, is about to resort at this day to an exclusive metallic currency.

Now why is it, let me ask, that paper is resorted to at all, for use as money, instead of metal? On what principle is it adopted? Paper is not, it must be remembered, an entirely independent substitute for metal. A convertible bank note is merely the paper title to so much

coin or bullion as is expressed on its face. It is worse than worthless as money, if it be not this, and merely this. It does not take the place of coin, or dispense absolutely with the use of it, any more than the deed which a man has of his farm takes the place of the farm of which it is the evidence of title. The instrument is portable, while the acres are not, and by its means, the acres themselves may be transferred from one owner to another, not only with facility, but with perfect security, and that at the distance of a thousand miles from their location, as well as if the parties were actually standing on the soil itself.

Metal is an expensive article. It could not be used as money if it were not; nor would it be fit for use as money, if there was not a natural and ascertainable limit beyond which it cannot be profitably produced. But while, on the one hand, a material of value is indispensable to constitute a common measure of values, and a basis for a common medium of exchange, yet it is always true, on the other hand, that such a material is used, if at all, only at a dead loss of so much productive capital. Gold and silver, in use as money, are in themselves utterly unproductive.

They are employed in making exchanges of property; they create no values; they add nothing directly to wealth when thus used; they are so much dead capital in the hands of those who are obliged to employ them in active business; and to keep them in actual service for making exchanges, when a paper representative would answer the purpose equally well, would be just as wise as it would be if a merchant should use a gold or silver yard-stick instead of one of wood or brass, when

this last would perform the service of a yard-stick quite as well.

By the use of paper, the expense of keeping a large amount of coin is saved. There must still be enough to constitute the proper basis of the paper circulation, and enough to answer all the demands which the holders of the paper are likely to make upon it. But this amount is comparatively small, and all the residue is set free to be employed as active and productive capital. The commercial world is settled in the conclusion, and it is a matter about which there is no difference of opinion, except as that difference of opinion has manifested itself in this country within the last eight years, that in commercial transactions, paper is absolutely indispensable.

You must return to a state of comparative indigence, you must cease to give employment to the industry of the country as you now do, business and enterprise to a great extent must be suspended, or you must adhere inflexibly to your settled system of a convertible paper currency. Bills of exchange and bank notes can never be dispensed with in the transactions of an extended commerce. Gold and silver could never perform the office and service which *they* perform.

Valuable even as gold is, the bulk and weight of it, and the time and labor necessarily consumed in weighing, or counting, and transporting it, when employed in heavy business, render it wholly unfit for the uses of money. And if metal, or some material of intrinsic value must be used, we must find something better than gold and silver. In Russia, it is understood, that platina has been coined for money, and in regard to its superior

value, has one advantage over gold, for heavy transactions.

But there are objections to it, and, besides, even this material is not dear enough to make it a competent medium in very large exchanges. Diamonds have been resorted to ; but are utterly unfit for common use as money for a variety of reasons.

Now convertible paper is just that instrument, which, by its constant and steady reference to specie, at the same time that it dispenses with the actual use of it in exchanges, enables the trading public to perform its extended operations in business in spite of a want, which otherwise would be most severely felt—which otherwise would certainly impede and arrest these operations.

A money of intrinsic value to answer the large demands of commerce, would need to be some material which, without being more ponderous or bulky than gold, must, quantity for quantity, be vastly more costly—so that one eagle of such material, would suffice for exchanges which would require a hundred or a thousand eagles of gold. And then if such a material could be found, it is easy to see that it would be utterly useless in all smaller transactions, in consequence of the minuteness of the pieces to be employed. Indeed it is, in my judgment, impossible to conceive of any material for money which, in actual circulation could answer the valuable and indispensable uses, for which convertible paper is now employed.

But I do not regard paper as useful only in large transactions ; it is equally useful in smaller. We are apt, I think, to commit a great error in the estimate we put on the ordinary and every day business of life. We

greatly underrate its aggregate importance. We look at drops of water, and we forget that the ocean is made up of such. Our attention is arrested by the proportion and magnitude of some individual operations, and we forget the superior aggregate value of vast numbers of others, because each is of itself so humble and unpretending. We look at an individual trading on a capital of a million, and forget that the trade of ten of his neighbors who operate on a capital of one hundred thousand dollars each, is equally important; and what is more, we forget that the trade of fifty others who operate on capitals of fifty thousand dollars, and of yet thousands of others who use still smaller capitals, down even to very humble amounts, is vastly more important. Let gentlemen consider the importance of money for the common business of life. Consider our two millions of inhabitants, our three hundred and fifty thousand voters, with an equal number of females; seven hundred thousand persons making payments almost daily in sums under five dollars. It is impossible to say, sir; I have not the data on which to make the calculation; but I am inclined to believe that the total of payments made in this state, in a given period of time, in sums under five dollars, is greater than the total of cash payments in sums above that denomination. And if this be so; or even if this conjecture approaches the truth, does it not give great importance to a subject like that now under consideration? And if it be admitted that convertible paper is not to be dispensed with as an agent of exchanges, where sums above five dollars are required, because of its superior convenience and fitness, with what propriety can it be contended, that it is not equally fit

and convenient for that vast aggregate business, requiring money below that denomination? Undoubtedly, there is a limit of denomination below which the issue of paper ought not to be allowed. That limit is ascertained in this, as in every country, by experience; and experience, I think, has shown that paper should be used for all sums except the fractions of a dollar.

Sir, closely connected with the view now presented, is another, which has great influence with me, and which leads me to regard the restraint on the issue of small bills with abhorrence. I think that any policy which unnecessarily separates between the poor and the rich, is, and must be, in the mind of every fair man, odious. If convertible paper is a better currency than metal, cheaper and more convenient, then it is monstrous, to furnish the rich with paper, and turn off the poor with metal; and neither the propriety, nor the morality of the measure, is at all improved by successfully deluding the latter class into the notion, contrary to the truth, that they have the better currency of the two. But if, on the other hand, metal is a safer and better currency than convertible paper, then I insist, if you provide a currency of metal for one class, you are bound to provide it for all. It cannot have escaped observation—we have had some evidence of it in the course of this debate—that metal is insisted on as money when small money is required, *because* that is the money of the poor. Sir, for myself, I repudiate all such notions; the principle is a vicious one, and as the basis of legislation, I declare that I know of nothing more odious, or more mischievous. Give to the community, and the whole community, a safe and sound currency for all classes, and for all tran-



sactions, and then you will have done your duty to the poor as well as to the rich.

But, Mr. Chairman, gentlemen have offered several reasons why, in their judgment, this bill ought not to pass; and I propose to examine the strength of those reasons. Among these grounds of opposition it is urged that a currency of small bills is *unsafe*—especially for the poor. Now, in the first place, I remark, that it is as safe for the poor as it is for the rich. There is as much of it, when it circulates, in the hands of the rich as in the hands of the poor—probably a great deal more. And if there be any good reason why any one class in the community ought not to be trusted with it, then it ought to be withheld from the whole.

Two suggestions have been made as shewing why this sort of currency is unsafe. The first is, that it is liable to be counterfeited. And so, sir, is that of a higher denomination, and much more liable than the small bills, because just as easy and vastly more profitable to the counterfeiter. I apprehend, sir, that this notion that notes under five dollars are more likely to be counterfeited than those above, has been drawn from the fact that that happened to be the case with the five pound notes of the bank of England, and which was undoubtedly one of the reasons why that circulation was withdrawn. This was not, however, the only reason. England had a system of free banking—nearly so every where—entirely so sixty miles out of London. Under this system, it was found that country banks, being unrestrained in the character of their issues, and unable to establish themselves sufficiently in the confidence of the public to keep out notes of the larger denominations, resorted to

issues of small notes, which they *had* credit enough to circulate, though too often they had neither capital nor honesty enough to redeem. This was one evil which led to the exclusion of small notes in England. But the other evil suggested—that of the facility with which counterfeiting was committed—undoubtedly aided in inducing the government to interfere. Neither the country banks, nor the bank of England had taken any pains to have their notes properly engraved—especially those under five pounds. Nor was it of any benefit to the bank of England to issue small notes, particularly if obliged to procure expensive engravings, as it never re-issues its notes—not even though drawn at one end of the counter, and immediately presented for redemption at the other. They are received and instantly cancelled. It was, therefore, in England, rather the interest of the bank than of the community, that small notes should be withdrawn from circulation. We know very well that our system is widely different. Our banks re-issue their notes at pleasure, and as often and as long as they continue fit for circulation; and the character of the engraving is much the same in the bills of all denominations issuing from the same bank. It is as difficult a matter to make a successful counterfeit of a one dollar bill as of a five or ten—a difficulty, in regard to the whole subject, which is greatly increased with the advance, if not perfection to which the art of engraving has now attained.

The other suggestion, as shewing that small bills are unsafe, is that the solvency of the banks may be doubtful. But if the solvency of the banks is really doubted, that doubt should go for the benefit of *all* who have any

thing to do with any of their issues. For one, sir, I have no idea of any such duty as that of legislating exclusively for the poor. That may be a doctrine of modern democracy, and it may suit the notions of some gentlemen on this floor, but it will never satisfy me. And I deny the constitutional right of any member to be here, as some seem to be, for the purpose of conducting legislation, as far as may be, on any such narrow, partial and exclusive principle. But touching this subject of security to the bill-holder, I think the tone of the gentlemen in the opposition must be allowed to be somewhat changed. It certainly has been the fashion in this state, especially among those who have claimed to be of the democracy, to sing praises to the Safety Fund, as making the banks the securest in the world. Is not that so? And is it possible that gentlemen are now prepared to say that their boasted Safety Fund offers no security to the holders of our bank-note currency? For it must be admitted certainly, if it be worth any thing as security, it is worth as much for notes below, as for notes above five dollars. For myself, I never had, and have not now, a very high opinion of your safety-fund system. I have always been impressed with the sentiment, that it was introduced and sustained, by those who best understood what they were about, for the purpose of cheating the people into a confidence in banks altogether beyond the real merits of that part of the system. As far as the fund itself goes, every body of course acknowledges that it is a substantial security; but I think a better might be devised, and I think the banks all along have rested, and that they now rest, on a basis of security better than this, and to which this feature in

the system really contributes very little. Yet, whether this be so or not, it is certainly a little strange that gentlemen who have been the friends and sworn advocates of this system, early and late, who have supported it and been supported by it, should now profess to entertain doubts about the solvency of the banks, the Safety Fund to the contrary notwithstanding; that they should seriously object to restoring to the banks the right to issue small notes, on the ground of an avowed apprehension that they would never be able to redeem them! Let not gentlemen attribute their loss of confidence in the banks to the suspension of specie payments. The suspension is bad enough without aggravating, or adding to, the evils which properly belong to it. It is undoubtedly true that, in a commercial sense, a bank fails when it can no longer pay its notes in specie if demanded. But if an individual may, and often does, suspend payments entirely, and yet be perfectly solvent, the suspension of payments in *specie* by a bank, where it still goes on to meet all its engagements in the only currency that is left to the country, is not even evidence *prima facie* that it is insolvent. It is true, that a suspension necessarily throws every thing into confusion. Currency becomes deranged, and prices are unsteady, and property is of uncertain value. But in the circumstances of the country at the time it took place, suspension was not the greatest evil which could happen. If it had then been universally insisted on that nothing should be received in payment of debts, in any quarter, but gold and silver, universal bankruptcy of course must have succeeded. The banks would have been insolvent, because all their debtors would have been insolvent, a scene of unpa-

ralleled suffering, perhaps of anarchy, would have ensued.

But my final answer to this objection of the probable want of soundness in the banks, is a broad one. It is an objection, which goes to their present issues, and to any they may make, in bills of five dollars and upwards, as well as to the issues for which this bill provides. And if gentlemen are sincere, they are bound to see that banks, which have not the ability to redeem their small notes, if they should put them out, shall not be allowed to issue or keep afloat their large ones.

But, Mr. Chairman, I come now to consider another reason, which has been urged, why small bills ought not to be issued. Gentlemen begin with the position, that there can be no such thing as a safe bank-note circulation, which is not based on specie—and in this position I cordially concur. I suppose, if there be any one proposition in political economy, or in regard to currency, which is entirely settled, it is this. At any rate, I agree, as a general principle, that if you use paper for currency, it must be a paper, convertible into specie, at the will of the holder. In other words, I agree, that an issue of paper, on a property basis only, and with no other limit, or restraint, than what is imposed by the limited amount of such property, is utterly unsafe, and sooner or later, will always be depreciated. But I regard it as a very great error, though a very common one, into which gentlemen here have fallen, when they insist on having nothing but metal money in circulation, under the denomination of five dollars, or any other particular sum, under the idea that it serves as a basis for the paper circulation above that sum. The two things it seems to

me, have no sort of connexion with each other. It is untrue in fact that you create a specie basis for paper in circulation, by establishing a distinct circulation of specie along side of it. The truth simply is, that you thus have two disconnected currencies instead of one. The streams come together indeed at the point of confluence, and flow on together in the same broad channel, but they never do, and they never can be made to, commingle and unite.

Sir, what is the object of a specie basis for a paper circulation? There are two ends to be answered by it. One is to have the means of payment, in that material, to meet any demands which may be made for it. For this purpose alone, the basis ordinarily need not be large; for experience shews that probably not one person in five, holding bills will demand the specie; frequently, in times of security and confidence, not one in twenty, or even one in a hundred. For this reason it is that banks may be safely conducted with paper out, greatly exceeding the actual amount of specie on hand. In this particular, the business of a bank is very much what the business of any fair trader is. Specie is the only legal tender; every creditor may demand it of every debtor; but it is not demanded except in comparatively rare instances; and in conducting a business, great or small, the principle of safety only requires, that full provisions should be made for the demand, whatever in practice it is likely to be. This then is one object of a bank specie basis. And now, in regard to this object, what is gained to the community by having a specie circulation established by the side of a paper circulation? It is the bank that is to redeem its paper, not the community. If you

present a five dollar bill at the counter of a bank for coin, you do little to facilitate the transaction by having five dollars of silver already in your pocket; and I conclude the only proper place for a specie basis, to meet the current demands of a paper circulation, is the vaults of the banks.

But it is said, that a mixed currency, consisting partly of paper and partly of specie, affords the best security against over issues; and this brings me to consider the other, and the more important, use of an ample specie basis. I desire it to be remembered all the while, that what is thus called a mixed currency, is in truth no such thing. It is always the case of two distinct, and, in some respects, opposing currencies, and in the nature of things they can not mingle and become one. The one is not a basis for the other; one may be above the other, but does not rest upon it; and the notion that any considerable check is thus given to expansions and the evils of redundancy to which paper always tends, is, in my judgment, entirely unsound. This check can only be given by a sufficient specie basis *in vault*, kept in some fixed and adequate ratio to the whole amount of paper in circulation. It is this office of a specie basis, on which I am prepared at all times to insist; and I avow my solemn conviction and belief, that as nothing else ever has been found, so nothing else ever will be found, which will operate effectually to repress undue and destructive expansions, in a currency consisting chiefly of paper, and keep it in a sound and healthy state.

Let us see now if any principle can be found in a so-called, mixed currency, to check expansions. We will suppose that this whole country may require, for its

actual exchanges and the employment of its capital and industry, a currency of a hundred millions of dollars. Let us then be supplied with eighty-five millions of paper and fifteen millions of specie, the line of demarcation between the two currencies being drawn at the five dollar point, the specie of course moving in the lower plane, and the paper in the upper. Now comes a time of great activity in business. Men are stimulated, and they stimulate each other, to extraordinary action. Property advances in value. Speculation begins to make large promises, and excite high hopes. Money is in demand; the banks begin to be importuned; and as every thing looks prosperous and bright, they catch sympathetically the tone of feeling without, and they become liberal and generous even beyond their wont. Debtors are treated with great lenity, because securities seem abundant, and new issues of paper are freely made. In this way the sum of the circulation is greatly increased, while, it must be remembered, your specie remains stationary. But it will not remain stationary long. Let your circulation go up to one hundred and fifty millions—a hundred being still all that the actual business of the country requires—and before you get to this point your specie in circulation will begin to disappear. You have now a redundant currency, and of course a depreciated currency, always manifest in a general rise in prices, and the specie is depreciated in the same proportion as the paper. It is now worth more abroad than it is at home; a demand for it begins to be felt, and hoarding becomes the order of the day. So much of it as was in circulation, or a great part of it, disappears. The farmer, and the tradesman, and the thrifty laborer all



put it by. The banks can not get perhaps a dollar of it; and no considerable part of it goes out of the country to meet and check the foreign demand. That demand, in nearly all its strength, whatever that may be, must be met by the banks; a pressure ensues, and to encounter the crisis, and save themselves, there is one only way—and that is to withdraw their paper as rapidly as possible. And this is the ordinary operation of an expansion and contraction of the currency; and I invite gentlemen to consider well if they can find any thing in their favorite plan of a double and antagonist circulation, to prevent or to check it. Certainly I can not.

But again, sir, on the point of expansions, and whether the tendency that way is checked, by the presence of specie in the lower channels of circulation—how are the facts? I shall not go into this subject, except so far as to refer gentlemen to the actual workings of this system. In England, small notes are not now issued; once they were. Let it be shewn that expansions were greater and more frequent in the one period of their bank history than in the other. In Scotland on the contrary, small notes circulate and always have, I think, circulated; and no banking system perhaps was ever as free from the vice of expansion as this. From the beginning of banking in that kingdom, it is understood there has been but a single bank failure; and I do not know that that occurred as the consequence of any over issue. How has it been in Pennsylvania, in Maryland, and other states, where the policy of suppressing small notes has been long and thoroughly tried? And what has been, the experience of these states, compared with the operation of a different system in New-England, in regard to

expansions? In Maryland, it is now proposed by the governor in his recent message, to return to the use of small notes. And finally what has been the experience of our own state in this matter? Has our paper circulation been less since the prohibition of small bills than before? I have not looked at it lately, but I have no doubt an examination would shew, that the aggregate issues of our banks since the prohibition have not been materially diminished—increased rather; and recent events are enough to satisfy every one that expansions, and the worst consequences of expansions, are in no degree prevented by the substitution of specie for any part of the paper circulation from one dollar upwards. And, sir, the more I reflect on this matter the more I am satisfied, that this hard money policy, even to the extent of excluding small bills, if it should go no further, is not the policy for this country. It is a good enough policy, possibly, for England; a better one perhaps for France; better still for Austria, and better than all for Russia; but it will never do, I am sure it will not, for a country where the people are already advanced in wealth, in cultivation and general intelligence, or where it is intended they ever shall be.

And now, Mr. Chairman, I have gone through with all the observations, which I have thought it my duty to make, on the merits of the bill on your table. But, sir, as I remarked in the outset, this debate has taken a wider range, and I hold myself bound to proceed a step further, and notice the positions and arguments of gentlemen on several points connected, though it may be somewhat remotely, with the main subject. So far as I now recollect, nothing has been offered to the committee in

opposition to this bill, beyond what I have already commented on, which requires me to regard it as having been advanced in any other than a spirit of hostility to banks, to bank paper, and banking business in general. In this way I do, and must, regard it; with what reason, must be left to appear in the course of my observations.

It has been said, sir, that those who support this bill are the friends of banks. Well, I believe that is so. For one—for I speak for myself in this matter—I am in favor of a convertible paper currency, to the extent already indicated in my remarks; and I am the friend of banks, as the constituted public agencies by which that currency is to be furnished. I am the friend of banks, just as I am the friend of the steam-engine, which may be used to propel a boat in which I may choose to become a passenger, because it carries me forward to my destination. I am the friend of banks, as valuable, and, at present, indispensable institutions of great public importance. In any other sense I am not the friend of banks.

In regard to the mode in which banking business shall be done, I have certainly some settled notions on that subject. I am opposed to unrestrained banking; but by no means to a general banking law. I insist on the necessity of some legal and effectual check on bank issues; but the proper restraint can always be imposed, whether it be our policy to furnish ourselves with a currency by means of corporations, or joint-stock companies, or individuals. In either way, it would be easy to provide for the perfect security of the bill-holder, and for the protection of the community against the monstrous evils of unlimited issues. As to our existing system of bank-

ing in this state, I do not think it free from faults. I think it may be improved, greatly improved ; and yet, I am not only the friend of banks, but I am the friend of the present subsisting banks of this state. I desire to see them preserved, and not destroyed ; I desire to see the public faith strictly kept with them, to see them possessing, as they may deserve, the unshaken confidence of the community, and fulfilling the great purpose of public benefit for which they were created.

Now I ask gentlemen who have addressed the committee in opposition to this bill, with a single exception, whether they think they can say as much ? They charge, in the way of reproach, on the political majority of this house, that we are the friends of the banks. Well, what do gentlemen mean by this ? Will they, after this, deny that they entertain a feeling of hostility to banks ? I take it for granted, that gentlemen who have any respect for themselves, or any just regard for decency, do not mean to charge it on the majority that we are the friends of the banks in any odious sense ? They do not mean to be understood that the majority come here purchased, or corrupted, by the banks, or under any improper influence whatever in their favor or behalf. Not one of them will say that. And the inference seems to be irresistible, when they make it matter of complaint and reproach, that we are friendly to banking institutions, and to a currency of convertible paper, that as for themselves, they are opposed to them all.

One gentleman who addressed the committee, informed us that banks were wrong in their origin, and he justified the favor with which, in former times, he may have regarded them, solely on the ground of what he

then supposed to have been the stern necessities of the case. Another gentleman argues that as banks were wrong in their origin, he could find no apology for their having ever been created in any idea of necessity. Why, gentlemen, I pray you, shew us what you aim at? If we are to have no banks, how are we to have bank paper? And if your objections go to the banks only, and not to the currency, will you inform us how that currency is to be supplied? Do you propose any other mode? And if not, then I ask, if all this does not look as if there was, in that quarter, a settled and determined aversion to all banks, and to all bank paper? I confess that I have not been able to resist this conviction, after considering attentively the whole course of this debate, and the character of the opposition which has been offered to this bill.

One objection made to the passing of this bill, is that the banks do not pay specie for their bills, and this is offered as a reason why the community shall not be allowed to have a small bank-note currency. If the people will employ such a currency at all, they shall get it where they can, at their own hazard, and in the face of a highly penal statute forbidding its use. Sir, is it not manifest, that this is not so much an objection to the present bill, as it is an objection to banks? It strikes at the foundation stone of every banking institution in the state. In the absence of specie for circulation, the utter impossibility of enjoying any such use of it at present, it is demanded by the people, that they may be furnished with something to supply its place—and what is the answer? No; you *can* have nothing but bank notes, and we will not allow you to have bank notes, because

the banks have suspended payments in specie—and this is broad ground, and goes, of course, as much against the use of large notes as of small.

But gentlemen go a step farther. They are not content with refusing the relief asked for, but they have a remedy of their own to propose. They would repeal the law of May last, which released the banks, for one year, from the penalty of forfeiture for refusing payments in specie! This is their remedy. They are for a specie currency to as large an extent as may be, and they would say to the banks, at once, give us specie in forty days from this time, or take the consequences. But are gentlemen quite sure that the banks can resume on such brief notice? They profess to think so; and upon what evidence? The gentleman from Jefferson, (Mr. Wardwell,) finds this evidence as I understand him, in the report made by several members of the late bank convention in New-York. Sir, I read that report differently. I think it winds up with the opinion, strongly expressed, that it will be found extremely difficult, at any time, against the will and without the co-operation of their neighbors, for the banks in this state to return to specie payments.

[Mr. WARDWELL explained. He had referred to the published journal of the proceedings of the bank convention, by which it appeared that the delegates from New-York voted for a resolution fixing the time for resumption by the banks generally on the 4th of March next.]

But that proposition was not adopted, and we have now the opinions of the very persons who voted for that resolution, stating the difficulties in the way of *partial* resumption—the very difficulties sought to be avoided

by the proposition to which the gentleman alludes. And yet, on no better evidence than this, of the ability of the banks to resume, without further delay, gentlemen insist on repealing the suspension law. Sir, would this be wise legislation? Would it be rational? Would it be safe? For one, sir, I can not consent to try so hazardous an experiment. I would not disturb the suspension law. I would give the banks their full time, in the confidence that, though at great sacrifices, they will resume within the period indicated by that act. I believe they are in as good a condition to resume, as any banks in the Union; perhaps better than any; but this matter of resumption is not so easy and safe a thing as some seem to imagine; especially if the banks of New-York must rise up alone and unsupported to meet the shock. I repeat that I believe the banks can and will resume before the 16th day of May next; I believe they will do this with the more ease if they would themselves fix the day; but, at any rate, I would give them all the time, now allowed them, to strengthen and prepare themselves for the event; and I declare that I can discover nothing in the attitude which gentlemen have here assumed towards the banks in regard to this matter, but new evidence of hostile feeling towards all our banking institutions.

[Mr. MANN, here asked permission to state a fact on which he founded his belief that the banks could resume in forty days—in forty minutes he might say. He referred to the fact, that during the past year six millions of specie had been imported against ten millions exported—the difference four millions only.]

For myself, from the best information I have on the

subject, I am inclined to think that the balance of exports is not as large as the gentleman supposes. But what of it, either way? If the commercial debt of this country abroad has been paid, it is of little consequence to our present inquiry whether it has been paid in produce or in specie. The fact, I presume, on which the member from Herkimer would rely is, that, whether our foreign debt be paid, or not paid, or if paid, whether paid in one way or another, it is at least quieted, and the foreign exchanges, from having been greatly against us, are now in our favor. And then I must be allowed to say, that if he takes this fact alone as entirely decisive of the question of the ability of the banks in New-York, at once, and without concert, to resume, and would compel them accordingly, I must deem him an unsafe counsellor, and legislator, either in regard to the interests of the banks, or the interests of the community.

Sir, we must not forget, on such a subject as this, that there are some peculiarities in our condition in this country. It must not be supposed, because the bank of England may be relieved from all apprehension of a demand for specie the moment foreign exchange is in favor of London, that therefore the banks of New-York must be relieved also from any such apprehension whenever foreign exchange ceases to be against that city. We possess a widely extended country, composed of twenty-six local sovereignties, of all which New-York is the money centre, as London is the money centre of half the world. What we call domestic exchange as applied to New-York, is precisely what foreign exchange is as applied to London; and it is just as important, for the security of banks in New-York, with reference to resumption, that



they should be free from ruinous demands for specie from Philadelphia, Charleston or New-Orleans, as it is, that there should be no ground for such demands from Paris or London. What the precise state of the domestic exchanges may be at the present time, I shall not undertake to say ; it is enough to know, that they are not equalized, and that it is, to say the least of it, utterly unsound and untrue, that the ability of our banks to resume depends simply on the naked fact, whether foreign exchange is, or is not, against us. And I repeat, sir, that when I see gentlemen of intelligence, instead of opposing the bill before us on its merits, resorting to such a measure of opposition as that now proposed—a measure of extreme hazard, if not of certain destruction—and with no better grounds than those now offered to justify the professed belief that that measure would be innocent if not salutary—when I see this, I think I am free to conclude, that all this proceeds from a determined spirit of hostility to banks and bank currency.

Sir, there was another and a distinct reason, though nearly related to the last, offered why this bill ought not to pass. The objection I have already considered was, that small bank notes, if allowed to be issued, would not be immediately convertible ; the position I now refer to was, that the banks ought not to have the privilege of issuing small notes because of the offence committed by them, in suspending specie payments. And this is the answer gentlemen would give to a demand, made by the community with singular unanimity, for a currency of small bills. The people say—give us a currency—allow us to have money for the transaction of our necessary business ; and the answer is, the currency you seek

is to be furnished, if at all, by the banks, and the banks shall make no such issues, no matter what may be your necessities, because possibly it might result in some pecuniary advantage to those offending institutions.

It would be something, if there was any justice in the imputation cast on the banks. For myself, I have seen no evidence that the suspension was exclusively the fault of the banks. My own opinion clearly is, that the suspension never would have occurred, but for the gross mal-administration of the general government in regard to banking, the currency, and other kindred subjects. And yet, if it were admitted that the banks suspended without necessity, and only to accommodate themselves—a supposition both idle and absurd—still I should think that fact, when offered to oppose the measure now under consideration, to be an argument much more likely to prove the hostile temper and disposition of those who advance it, towards all banks and bank currencies, than to convince any body that this community ought not be supplied with small bills.

But, Mr. Chairman, this measure is opposed on another ground; or rather I should say that this occasion has been seized to charge amongst other things, that the banks have been exempted by law from the payment of their debts in specie, as every citizen of the state is obliged to do. As the charge was first made, it was untrue in fact. The banks enjoy no such exemption. They are just as liable to pay specie, and to be prosecuted for refusing to pay specie, now, as before the suspension act was passed. It is true that when that act was passed, a provision was inserted in the law the whole object of which was, to save the banks from the

petty malice of the restless enemies of all banks, by taking away from them the right to recover costs on suits merely vexatious in their character and design. And I am, in no degree, surprised to find gentlemen here making loud and bitter complaints of this salutary and indispensable provision.

Next to this, sir, we have had another charge against the banks; that charge is, that the people of this country lost twenty millions of dollars at the time of the suspension, by the depreciation of the bills of the banks then in circulation.

Sir, if this were true, it would be difficult I think to shew what necessary connexion it has with the proposition now before us. But it is not true; and before gentlemen arm themselves with weapons of this sort, if they mean to use them to any good effect, they would do well to assure themselves that the steel is of temper to cut. What do gentlemen mean when they talk of a depreciation of bank paper, and a loss upon it by reason of that depreciation? That it has been depreciated *as compared with specie*, is undoubtedly true; and that the whole community, with one voice, consented to adopt it as the temporary currency of the country, in the place of specie, is also true. But where is the evidence of this loss of twenty millions? Bank paper was in circulation, and used as currency, up to the moment of suspension, and it continued to be so used afterwards; and I know of no facts to shew that, *as currency*, and as compared with property generally, it was not worth about as much after, as before that event.

But, sir, the most serious charge brought against the banks in the course of this debate, is the old and fa-

vorite one, in certain quarters, that they are monopolies. What is a bank? solemnly demanded the member from Herkimer, (Mr. Mann,) and the solemn answer was—it is a monopoly. Now, sir, I take issue on the fact. I deny that banks are monopolies, according to any definition with which I am acquainted, or even according to the gentlemen's own definition. I understand a monopoly to be a privilege granted to a company or an individual to conduct some business or trade from which all others are excluded. Such a monopoly was granted to the East India Company. I know of but one instance of a strict monopoly existing by law in this country, and that is one to which nobody objects. I mean the exclusive right which is secured to an inventor. Copy-right is not strictly of this character, because that is no more than the security of a natural right which every man has to the produce of his own industry. The other is a monopoly, because, though, as often happens, the same identical invention may be reproduced, yet the right is secured exclusively to the first inventor. Now so far as I remember, this is the only true monopoly known, at this day, to the laws of this country. There may be others; but if there are, banks are not of the number. The settled policy of this country has been to supply the local currency in the several states, by means of banks created under state authority; but these banks have had no exclusive privileges—certainly not with us. It has undoubtedly been the practice of the American governments, as it has of almost all others, at times, to contract with corporations for certain indispensable services to be rendered to the public, on the best terms in their power to make, and occa-

sionally the governments have not scrupled to pay for such services by a grant of privileges. In all this I see no violation of principle and no unjust interference with individual rights. It is necessary for the community that certain things should be done; and if the state, whose business it is, can not well do them under its own officers and with its own money, it may cause them to be done under contracts with individuals or companies. This is the policy under which our turnpikes, many of our bridges and rail-roads, and some of our canals, have been constructed; and in every such case, the tolls are the means of compensation and indemnity, and exclusive privilege to a certain extent, is implied in every such contract. But bank charters, at least in this state, carry with them no such privilege, implied or expressed; and it is no matter how many banks exist already, the state has always felt itself at liberty to grant as many new charters, as the business wants of the community might seem to require: and more than this, it is at perfect liberty, if it chooses, to throw open the business of banking to all who desire to enter into it—the only question in such case to be considered, being purely one concerning the common safety. All that can be said of it is, that the business of banking heretofore in this state, has been conducted only under license and authority from government. It has been supposed to be a business, which considerations of public security required to be controlled and regulated by law, and that it would not do to allow any body and every body, who might be so disposed, freely to do their part in supplying the country with so important and delicate an instrument and agent as that of currency. Whether there be or be not error in such

a position, is nothing to the present purpose. Such has been the policy of the state, and the creation of banks on such a basis is not the creation of monopolies, but only the establishment of public agencies, by means of which the government has undertaken to discharge the duty of furnishing and regulating the currency. And, at least, I hold it to be incumbent on gentlemen who propose to uproot these public agencies, by their cry of monopoly, first to satisfy the community that it can get on quite as well without these establishments as with them, and quite as well without as with any control whatever over the currency.

But the last charge against the banks which I shall deem it worth my while to notice, was one that fell also from the gentleman from Herkimer. It was that banks rob the poor—banks rob the poor! And the gentleman favors us with the explanation of this charge. Banks it is said, exchange their promissory notes for the promissory notes of individuals, charging interest on the loan of their own notes, and allowing none on such as they receive. That is the explanation, sir; and this is robbing the poor. It is not objected that the rich are obliged to pay for the money *they* borrow; but the poor—the poor are robbed, when they are compelled to pay interest for borrowed money—and the remedy for this oppression of course is, that the poor are to be supplied with bank notes, if at all, gratuitously! Sir, what is a convertible bank note? I have said, that it is a paper title to so much coin as is expressed on its face; and having that character it is money. The holder uses it as money, in making his exchanges of property, and in facilitating the profitable employment of his productive capi-

tal. It is money, and if he borrow it of a bank, it is borrowed money, and such as no honest man, *unless he be poor*, would borrow and use without paying for the use of it! Carry out the principle, and no man, *if poor*, is to be expected to pay, or give his promise to pay, for any description of property whatever. Or if, on the purchase of property—as a farm—and going into the occupation and enjoyment of it, it be thought decent, at least, that he should give his notes for the contract price, still that is quite as far as any body should think of going *with a poor man*, and it would be shameful to think of his being asked to pay any thing in the mean while for the use and profits of the property. . . Any other course than this would be robbing the poor!

[Mr. MANN interposed: I must correct the gentleman in the language he imputes to me. He puts into my mouth the words "robbing the poor." I used no such language. I said, what I have said often, and what I now repeat. I feel it; I know it. We live under a system admirably calculated, by a silent, unseen operation—unseen I mean by the mass of men—to transfer the products of the labor of those who submit to the curse of Heaven pronounced in Paradise, to the pockets of those who do not labor. I say that it is the operation of the system under which we live; and the gentleman from Albany has convinced me of another thing—that we live under a bank government.]

I thought it would come at last to that; and if any body doubted before the gentleman's unqualified hostility to banks, it would seem that all must be satisfied now. Sir, what if the gentleman did not use the phrase 'rob-

bing the poor'—as I certainly understood him to do. He complained bitterly of the banks for the offence of loaning their money to the poor at an interest, and he characterized it as a silent, unseen operation, by which the products of their labor are iniquitously transferred to the banks. Sir, if this be so, then if the gentleman does not employ the phrase, I will—they do rob the poor.

But the sympathies of the gentleman are again roused, when he thinks of the silent, unseen operation of the banking system, in behalf of those who, according to his interpretation, are the submissive victims of the primeval curse. Sir, there are some differences of opinion I think about the true reading of that Scripture to which the gentleman is so fond of alluding. For myself, I confess that what he seems to regard as a curse—namely, the necessity of labor—always looks to me like a very choice blessing. In his present position on the earth, I know not how man could escape the very depths of degradation and misery, if it were not for labor—labor, imposed upon him by a law of necessity, and always resulting, when cheerfully resorted to, and wisely employed, in a harvest of rich enjoyment. And then, Sir, whether labor be a blessing or a curse, I do not understand how it falls so exclusively to the lot of the poor. In my poor judgment the decree finds its execution as fully in the person of the gentleman from Harkimer, toiling in his appointed place here, as ever it did in the moistened brow of the operator in the field or the workshop.

Sir, if there is one thing which I loathe and abhor more than another, it is the disposition to create unhappy differences between the rich and the poor. And I



am sorry to be compelled to say that this has been the evident leaning of this debate, so far as it has proceeded from that quarter of the house, from the commencement down to the present time. Let gentlemen beware of sowing the wind, lest they also reap the whirlwind. Let them be honest on this deeply interesting and delicate subject, and be careful to represent the case truly as it is. Let them remember, that all things considered, there is great reason to believe that the poor are quite as happy as the rich. Let them teach the rich to emulate the poor in their humility and their virtue, and teach the poor to emulate the rich in their habits of economy and their comforts. Let them teach them all that they are brethren of one family, with a common origin, a common fortune, and a common destiny—children of a common Father, to whom they owe a common accountability. Let them cherish within themselves thoughts and feelings such as these, and sure I am, that we shall, in future, hear much less about the peculiar necessities and oppressions of the poor.

Mr. Chairman, in my examination of the various positions assumed by gentlemen who have opposed this bill, I think I have discovered all along a spirit hostile to banks, and the whole banking system. I would give them all the benefit of their disclaimers; but these are times when men know not what manner of spirit they are of. They have asked to be judged by their acts; and so I have endeavored to judge them.

Sir, I take it that gentlemen would think it unkind, if I were to insinuate that they were not the fast friends of the present administration of the general government; and particularly if I should hint a doubt of their being

firm and unflinching, in support of the schemes of that administration in regard to banks and the currency. What then, sir, is the policy of the administration on these important subjects? For myself, I believe it to be one of resolute hostility to the state institutions and the currency which they are employed to furnish. The preceding administration had been signalized by an exterminating and successful war on the Bank of the United States. President Van Buren came in with a promise to follow in the footsteps of his illustrious predecessor, and there were the state banks, and who could tell what glory might not be gained in a war on them?—My own belief is, that he had discovered, or thought he had discovered, some short time previous to the late presidential election, that there was in this country a decided and growing popular prejudice against banks, and I suppose it to be in entire accordance with his principles, and only in harmony with the whole action of his political life, never to hesitate about the duty and propriety of following the manifest indications of popular feeling and opinion, tend what way soever they may. His doctrine, I think, always has been, that the popular will is to be obeyed, not, indeed, whether right or wrong; but yet it is always to be obeyed, because it is *of course* always right—it is quite impossible that it ever should be wrong.

When the banks suspended specie payments, then certainly, if ever, was the time to begin the war—and then the war was begun. As had been done in the case of the Bank of the United States, he broke ground a good way off. In the present deranged state of the currency, he thought it a good time to establish the policy of

collecting all the revenues of the government in gold and silver only ; a measure as well calculated as could have been conveniently devised to prevent the banks from ever resuming specie payments. He thought it a proper time also, to recommend to Congress what he once regarded as an unconstitutional bankrupt law, applicable to corporations and other bankers only, under which, if fortunate, his own commissioners might soon have been in possession of the assets of every banking institution in the Union. He proposed his sub-treasury scheme, for the safe keeping and disbursement of the revenue, and declared his conviction that it had become indispensable to divorce the government from every possible connection with the banks, or with the currency which they emitted, and to make that divorce eternal. And, finally, in his late message, renewing his sub-treasury proposition, a little modified but made none the less offensive, he has taken occasion to state his opinion, in the face of the nation, that the recent local elections had manifested little else than the corrupt and corrupting power of the banks over the sentiments and suffrages of the people. Now, Mr. Chairman, it is such an administration, recommending such measures, pursuing such a course of conduct and policy, so palpably tending to the utter destruction of the banks by destroying their public usefulness, and whatever confidence the community has ever reposed in them—it is this administration, with its entire policy and measures, which commands the unqualified admiration and support of those gentlemen who have been found arrayed here in opposition to the bill now on your table ;—a position, I dare affirm, utterly inconsistent with any disposition of favor or for-

bearance towards banks or any of the valuable uses or purposes which banks are intended to subserve.

Sir, as nearly as I can understand the times, there are in this State, at the present time two, and only two, political parties—and they seem to be represented on this floor. The one, supported by an immense majority of the people, is the party professing those sound and well understood republican doctrines which have prevailed in the country, almost without interruption, since their origin in 1798; doctrines which look to the people as the source of all political power, and which profess to guard against all encroachments and assumptions of authority with a sleepless and untiring vigilance; doctrines which have never, since the day they were first promulgated, been openly denied without a signal rebuke from the people, and which only one man has ever been permitted to violate in practice with impunity. This is one of the parties. And the other is that small, but determined band of men, professing the sentiments of a strong and destructive radicalism; sentiments which look to the prostration of some of the most useful and essential institutions of the country, and to the arrest of all enterprise and prosperity, because all are not equal sharers in the immediate returns; which look to the supposed natural hatred of the poor towards the rich, as the means of levelling distinctions and differences among men which exist by the appointment of God himself; in the very diversity of faculties bestowed upon them, and without which it is impossible to conceive that human society could be held together. This is the other party.

- The issue between the two is fairly made up, and I pray God to favor the right.

## REPORT

ON THE SUBJECT OF RELIGIOUS EXERCISES, AND THE  
USE OF THE BIBLE, IN SCHOOLS: MADE IN THE AS-  
SEMBLY OF NEW-YORK, JAN. 23, 1838.

Mr. Barnard, from the committee on colleges, academies and common schools, to whom was referred the memorial of William G. Griffin and others, asking the legislature to enact a law to prohibit the practice of praying, singing, reading the Bible, and other religious exercises; in such schools, academies and seminaries of education, as receive aid from the public treasury,

### REPORTS:

That the committee have given to this memorial the most serious and deliberate consideration. They have been deeply impressed with the importance of some at least of the questions raised by the petitioners, and involved, directly or by implication, in the object they are pursuing, and the indispensable necessity, if possible, of having those questions settled, and settled right, in the public mind. In recommending that the prayer of the memorialists be not granted, the committee would not deem their duty faithfully done, without an effort to shew that their conclusions in the matter are sound and just; it is believed that this can be shewn to the satisfaction of the house, and, it is hoped, to the satisfaction of the petitioners and of the country.

The substance of the complaint in this memorial is, that religious exercises are tolerated in those public schools which participate in the public bounty ; and this practice they regard as a violation of the law of equality and the rights of conscience, as aiding to propagate and enforce peculiar religious opinions at the public expense, and leading to, if not actually forming, a union of church and state.

In order to understand the force and effect of this complaint, it will be necessary to look, for a moment, at our system of public instruction, to consider what our schools are, how constituted and supported, and why they are sustained and regulated as they are.

It happens, unfortunately, that experience does not shew that the mass of any people are disposed to keep up and support a sufficient and effective system of instruction for themselves by voluntary contributions, and it becomes necessary, therefore, for the sake of self-preservation, that the community should make provision for the support of education by law. This necessity was early felt in this state, and it has long been, and is now, and always must be, the settled and steady policy of the state, to furnish aid in support of public instruction.

To speak of our common-school system only. A large sum is distributed annually from the treasury in payment of the wages of teachers, and a sum equal to that which is thus furnished, and which is the income of a large fund devoted to this purpose, is raised by the compulsory process of taxation, and applied to the same object. Each district, complying with certain prescribed conditions, receives a share of these public moneys. The district taxes itself, if the majority in it so please, to provide

the proper house and accommodations for the school. It contracts, through its trustees, with a qualified instructor, and provides for the payment of any deficiency in the amount of public moneys to pay the wages of the master, by a rate-bill against those who furnish children to be instructed.

In this plan, it will be seen, that while no person, liable to taxation, is allowed to escape the duty of contribution to the support of popular education, no individual is compelled by any law to educate his children at all, much less to send them to the public schools. If he choose to violate the solemn obligation which his position as a citizen, a contractor with the community, imposes on him, to fit his offspring, by a proper course of educational discipline, for the part they are to act in the business of the common government, he is at liberty to do so. Especially is he left at perfect liberty, if he will have them educated at all, to do so in any manner he thinks fit, and under any masters whom he may see proper to employ. In regard to the support of the public schools, he stands precisely in the condition of any tax-paying citizen, who may have no children to send to those schools. He has the same interest in the school fund, and, like them, he contributes to the amount raised by taxation, according to his ability. Further than this the law does not oblige him to go. He is taxed for the support of an indispensable public institution, and, if he have children to be educated, this institution is open to him as to all others, and he is free to avail himself of its direct advantages or not, according to his pleasure.

Now it is to these schools, as we are to suppose, that the children of the petitioners are accustomed to resort,

and in some cases, it is fair to presume, that it is found exceedingly inconvenient, perhaps impossible, for these parents to furnish their children with the means of instruction any where else. They are, therefore, obliged to resort to these schools, or take the alternative of keeping their children in utter ignorance ; and it is, under these circumstances, that they come before the legislature with the complaint, that, on resorting to these schools, they find there a practice introduced—that of indulging in devotional exercises—which they deem highly offensive and objectionable. The grounds of objection to this practice, as far as we can gather them from the memorial, are two :

1. That the christian religion is thus supported, or aided, at the public expense.

2. That the rights of equality and the rights of conscience are thereby invaded, inasmuch as the unguarded minds of their children are thus exposed to be contaminated.

In regard to the first of these positions, the committee would only say, that it is a mere error in fact. It is simply untrue. These teachers are paid for teaching, and not for praying. No part of their wages is for this service, or any other religious exercise. And this must be evident enough from the fact, that the wages of teachers are not in the least affected by the consideration whether they pray or do not pray.

In regard to the other ground of objection presented by the petitioners, we remark : Whenever a number of persons associate together in public assemblage for any specific object, it is usual and perfectly competent for them to agree on the forms of proceeding, and the terms



on which the common object shall be prosecuted. This determination of course belongs to the majority ; and it belongs essentially to the power of the majority to insist on any conventional forms of proceeding while the body is together, not inconsistent with the common object. As for example, if it be a company of Friends, or they are in the majority, they may agree to sit with their hats on ; if not, they may agree to sit with them off. If the majority are Shakers, they may dance ; if Jews, or Christians, they may pray. And in all these cases, it is the duty of the minority to submit. The only question for them is, whether the form or ceremony insisted on is in itself decent and becoming, and not in hostility to the main purpose of the association.

Now it is on this principle that your committee suppose the practice objected to by the petitioners is adopted. The practice is not prescribed by any state authority. It is a matter wholly referred to the decision of the towns and districts. A majority of the parents sending children to a public school, acting for their children, as they have a right to do, may rightfully agree, and direct, that the proper business of the school shall be opened or closed, or both, daily with religious exercises. Each parent has a right to pray himself and to teach his child to pray ; and if one has this right, so have all, or as many as are of that way of thinking ; and as each may practise acts of devotion individually, whenever they associate they may practise the like acts of devotion in a social way ; and they may require the same thing of their children, whether individually or in a social assemblage. The practice is innocent and decent, and we know of no principle on which a minority, voluntarily associating with

them in pursuit of an object in which they are all agreed, can properly dictate to the majority the conventional terms on which the body shall proceed.

But the petitioners ask for the passage of *a law* to prohibit the practice complained of. They ask for a law to prevent the majority in a school district from ruling in a matter which is in itself innocent, and is of necessity purely conventional. They ask for a law to prevent a majority, associated and meeting for the purpose of instruction, from indulging in social prayer and reading the bible as a devotional exercise. The argument for this application is, that the children of the minority are exposed to have their minds tainted and corrupted by these religious acts.

It is undoubtedly true that no person, and no association of persons, is at liberty to indulge in any acts or practice, in the face of the community, which, by their necessary operation, are calculated to corrupt and debauch the youthful or the unwary; to incite to licentiousness or to crime. It is on this principle that the law will not tolerate the publication of obscene books and prints. As no man has himself a right to rob or steal, so no man has a right to incite another person to rob or steal; and as no man has himself a right to trample on the common law of public decency, so no man has a right to stimulate the passions of others to the commission of the like offence.

If then it were true that the devotional practice complained of by the petitioners tended of necessity to the contamination of the minds and morals of their children, it ought undoubtedly to be arrested by legal interposition. Such is not, however, the opinion of your committee.

It is not enough to make out the case, that the petitioners differ in opinion with those who resort to this practice, in regard to the character and pretensions of the religion which the latter profess. The petitioners have an undoubted right to pronounce that religion to be a mere superstition, and its whole story a collection of legends and absurdities, as they seem to do in this petition; but this we apprehend is not enough to make out a case demanding its suppression by legal authority. They must go farther, and show that this religion, by its necessary operation, is pernicious in its effect on mind and morals, tending to set men free from all moral restraint, and turn them loose, with excited and unbridled passion, on each other and on society. When this is proved, then undoubtedly ought the practice of "praying, singing, and reading the Bible," to be prohibited in schools. And of course the prohibition must not stop there. If these Christian practices are interdicted by law in schools, because they contaminate and corrupt the youth who there witness them, they must be interdicted elsewhere, and every where, within the state, for the same reason. If the public reading of the Bible, whether in schools or elsewhere, has a necessary tendency to vitiate public sentiment, to incite to universal lasciviousness, or in any way to weaken and finally destroy all sense of moral obligation, then the public reading of the Bible should be prohibited by law, not in one place, but in all places; and not only so, but it would be the duty of the community to put an utter end also to the printing and circulation of such a book.

The committee cannot suppose that these petitioners themselves are ready to carry out the work of prohibi-

tion and exclusion to the extent here indicated; and for ourselves, we should be quite unwilling to begin such an experiment in any quarter—at least upon any evidence we yet have of the pernicious and dangerous character of the book, or the religion, of which the petitioners complain.

But the prayer of these memorialists presents for consideration another subject of no little moment. They ask, that the reading of the Bible in schools should be prohibited; and this goes of course to its utter exclusion—if it may not be read, it cannot be introduced and used there for any valuable purpose. Now, your committee think that there are very weighty reasons why the use of this book should be retained in our public schools, and why it may be, without the least danger of offending any one's conscience, or injuring any one's rights. We have seen on what ground it is that the majority in a public school have a right to read the Bible as an act of devotion. We now mean to insist that its use as a text or class-book, is, in our judgment, indispensable to a good system of popular instruction.

Popular education is a thing very closely connected with the healthy existence of civil society, especially in the form which such society has assumed with us.—Having been at liberty to choose a government for ourselves, we have resorted to the republican mode, the first principle of which is, that the people are the source of all political power. We have all assented to this form of government, each individual for himself, and each is therefore under contract with all for its preservation. The obligations which the adoption of any form of government imposes on the citizens, do not rest alone in

constitution and laws. Some of the most essential are implied in the very nature of the government adopted. Such are those which have regard to personal character and conduct, and their influence, for good or evil, on the stability and permanence of the political forms in use. It is universally conceded that popular intelligence and popular virtue are indispensable to the existence and continuance of such a government as ours; and if so, then as the character of the public will be what the mass of individual character is, it is the duty of every individual to be virtuous, and to possess a competent degree of intelligence. Every man who has any voice or influence in public affairs, is bound to inform himself, and to act honestly; for if any one is not, no one is—all are at liberty to be both ignorant and dishonest, and whenever that happens, the government, being in the hands of the people, and swayed by a majority of voices, must become the most oppressive and odious of all tyrannies, and hasten to a violent conclusion. The whole power of the community rests with the majority, and no matter how well defined and strictly guarded, the limits of that power may be by the written terms of the compact, there are constant and strong temptations to exceed those limits; and the grand security rests, and must always rest, after all, in the intelligence of the majority to discover the proper boundaries of their power, and their sense of moral obligation to keep within them. In other words, the question of the existence and continuance of a popular government, is always a question of the existence and continuance of popular intelligence and popular virtue; and hence the necessity and the

obligation of every member of such a community to be educated and to be virtuous.

But popular education can not be left to take care of itself. It is found absolutely necessary to place it under the care and patronage of government. Such is the settled policy of our own state. And with what purpose is it, that the government undertakes to exert its political and parental authority over this subject? Not, certainly, for the personal benefit merely of the individuals who partake of its bounty; but it is for the sake of self-preservation; it is because these individuals together constitute the people, and because the people rule, and because without education they are unfit to be rulers. The object then simply is, to make these persons intelligent and virtuous men, that they may be intelligent and virtuous citizens; to fit them, in other words, for the faithful and competent discharge of their political, social and public duties.

It is not, therefore, enough that the government shall provide, in part or in whole, for the support of education; it is bound, as far as it can, to see that its bounty is so applied as to produce the result at which it aims. It is quite as important to take care that the proper course of studies be prescribed for the public schools, that they should be subjected to the proper discipline and the proper police, as it is that they should be cherished and sustained at all. And who is to take care of this important matter, if the state does not? The limit of its authority over the subject is very clear. It is found in the object to be accomplished. Keeping that object steadily in view, and being careful to prescribe nothing inconsistent with it, its power is indisputable.

At present with us this important power of prescribing the course of studies in our common schools is lodged in hands very near the people. The inhabitants of each town elect six officers who are by law the inspectors and visitors of the schools, determining the qualifications of teachers, and directing the course of instruction. These officers, of course, represent the majority of qualified voters; that is to say, the majority, through their elected officers, do, or may, prescribe the course of studies.

Now your committee do not undertake to say what subjects of study should be prescribed. That would be foreign to our present duty. But when it is asked that a particular book should be excluded from the course by law, it is deemed proper to shew, at least, why that particular book should be retained, if already in use, or brought into use if it is not.

The great reason may be thus stated. Moral instruction is quite as important to the object had in view in popular education, as intellectual instruction: it is indispensable to that object. But to make such instruction effective, it should be given according to the best code of morals known to the country and the age; and that code, it is universally conceded, is contained in the Bible. Hence the Bible, as containing that code, and for the sake of teaching and illustrating that code, so far from being arbitrarily excluded from our schools, ought to be in common use in them.

Keeping all the while in view the object of popular education; the necessity of fitting the people, by moral as well as intellectual discipline, for self-government, no one can doubt that any system of instruction which

overlooks the training and informing of the moral faculties must be wretchedly and fatally defective. Crime and intellectual cultivation merely, so far from being dissociated in history and statistics, are unhappily old acquaintances and tried friends. To neglect the moral powers in education, is to educate not quite half the man. To cultivate the intellect only, is to unhinge the mind, and destroy the essential balance of the mental powers ; it is to light up a recess only the better to shew how dark it is. And if this is all that is done in popular education, then nothing, literally nothing is done towards creating and establishing public virtue, and forming a moral people.

The moral powers then must be informed and cultivated in our schools. Children must be instructed in moral truth, and be taught to feel habitually the force of moral obligation ; and to do this according to the best standard, the use of the Bible for that purpose can not be dispensed with. So it is believed the great majority of our people think, and wherever they think so in the towns, they will, of right, by their proper officers, order and direct the course of instruction accordingly.

Nor is it discovered what good right the petitioners, or any minority of persons, have to object to the use of this book for the purpose indicated, as an approved and standard work for instruction in morals, because their opinion of its merits in this respect may differ from that of the majority. If the minority may rule in regard to the use of this book, and forbid the teaching of its code, they may do the same thing in regard to any other book, or any other subject. They may insist that the Christian code of morals shall be exchanged for that of the



Brahmins, or turn the schools over to Plato, or Aristotle, or Seneca, or Mahomet. They may prescribe the entire course of studies, instead of leaving it to be done by those to whom the law, and the voice of the majority, have confided the power.

Nor again, is it discovered that the practice of teaching morals according to the christian code, and using the Bible for that purpose, the majority adopting it, is any infringement whatever on the religious rights and liberty of any individual. To teach christian morals, referring to the Bible both for the principles and for their illustration, is a widely different thing from teaching what is understood to be the christian religion. Religion is a matter between a man and his God. It has reference to the worship of the Supreme Being, and the mode of such worship, and has relation to a future state of existence, and the retributions of that future state; and it is concerned with creeds and articles of faith. Now, religious freedom consists in a man's professing and enjoying what religious faith he pleases, or in the right of rejecting all religions; and this freedom is in no degree invaded when the morals of the Bible are taught in public schools.

And if the christian religion, as a system of faith, whether according to one creed or another creed, according to the notions of one sect or of another sect, is not taught in these schools, then of course there can be no pretence that this religion is, in this way, supported by the state. Your committee, in common, they believe, with nearly the whole body of their fellow citizens, would regard it as the deepest of calamities, if religion—the christian religion—should fall under the protection and patronage

of political power. That religion is, in its nature, free ; it cannot take support from law, without losing its lustre and its purity ; it is in its very essence and spirit, to demand none but a voluntary worship, and allow none but a voluntary support. But we can not discern that it is in the least danger of injury from any public support in the schools, on account of the use which may be made there of the Bible as a text or a class-book.

Your committee have now given the reason why they think the Christian code of morals should be taught in our schools, as an indispensable part of our system of popular instruction ; and why the Bible should be employed for that purpose. There are other reasons why it is exceedingly desirable and important that this book should be generally used in our schools and seminaries, instead of being arbitrarily excluded, as these petitioners require. But we do not deem it necessary to detail those reasons. If the Bible should be studied for its moral principles, it should be studied also as a history, and as a classic. As an authentic narrative of events, the most extraordinary and the most interesting any where recorded of our race, it is invaluable ; and there is nothing, and can be nothing, to supply its place. And such is the nature and antiquity of its story, that no education in this department of knowledge, not the most elementary, can be had without some acquaintance with its contents. And then as a classic, if generally employed as such, it would certainly supply a want which no other book can. The faithful and critical study of the English language, in its purity, by the youth of our country, is immensely important ; and it is confidently believed, that no where can there be found, in the same

compass, half as many specimens of beautiful and pure Anglo-Saxon language, as in the Bible. And we think it may be safely said that, since the publication of the present English Bible, as translated under the orders of king James, no writer or speaker in that language, can be named, who has acquired any just celebrity for the simplicity, strength and beauty of his diction, who has not been mainly indebted to that book for his excellence in that particular. Mr. Fox declared, that if he was ever eloquent, it was because he had faithfully studied the book of Job.

In conclusion, your committee would only say that, while after the most attentive examination, they have not been able to find, in the memorial before them, one fair ground of complaint, they have been and are, deeply impressed with the many and weighty considerations which urge on all who value the interests of education, the interests of morals, and the interests of the country and of mankind, the indispensable necessity of preserving to the people the right to employ the Bible as a means of invaluable secular instruction, in all the public schools and seminaries, to which they may have occasion to resort.

Complaints of whatever is valuable in civil society will always be made. Some who make them are honest, but mistaken; more act under the merest delusion; a few are speculative and reckless. Men of this latter class are apt to be ingenious, because restless and dissatisfied. Their work is to destroy, but never build. The moral restraints of society sit gallingly upon them. They take the name of liberty on their lips, but they mean license and confusion. With them nothing is

sacred, nothing is venerable, and nothing is safe. And of late, their boldness and strength seem to have increased. Their spirit is seen every where. It is busy with political institutions, with religious obligations, with social forms and domestic ties; busy to weaken, to invalidate, and to undermine. They are not supposed to be numerous even yet; but they have followers, who are followers because they do not know who they are who lead them, or whither they are led. This state of things demands undoubtedly great firmness on the part of those who would sustain and preserve what is valuable in our social and political forms. And it demands as much moderation as firmness. We would always hear; we would always consider; and we would always reply only by argument, and by appeals to reason and to truth. It is in this way that the committee have intended to meet the complaints of these memorialists; and with what success they may have done so, must now be left to the judgment of the house and of the country.

The committee recommend to the house the adoption of the following resolution:

*Resolved*, That the prayer of the memorialists be not granted.

## SPEECH

ON CORPORATIONS, AND THE PROPOSITION TO MAKE CORPORATORS PERSONALLY LIABLE; DELIVERED IN THE ASSEMBLY OF NEW-YORK, JAN. 30, 1838.

[The house in committee of the whole, had under consideration an act to incorporate the Cold Spring Whaling Company.]

Mr. CHAIRMAN—This is a bill to incorporate a whaling company, after precedents now for some time established in this state. In regard to the policy of incorporating companies for this particular object, I do not, for one, feel bound to enter into any special explanation of that subject. No sufficient objection to the object having occurred to my mind, and none having been suggested by others, I am, of course, in favor of the bill.

But, sir, when we were in committee on this bill some days ago, an amendment was offered, the object of which was to subject the corporators to personal responsibility for the debts of the corporation. On that occasion, I made some remarks explaining my objections to such a feature, whether in this bill, or any other of a similar character; and I took the opportunity, at the same time, to throw out some general reasons why I thought corporations were entitled to the favorable consideration of the house and of the country.

It is not desirable, sir, to be drawn into the discussion

of great principles on a bill of so little public interest as this, if it could well be avoided; yet I own that my observation and limited experience have led me to think it best, as a general thing, to meet and resist error on its first appearance, and at the earliest opportunity. The propriety of doing so on this occasion is more apparent now, from the avowal which was made yesterday, that this is a favorite principle in certain quarters, and that it is to be insisted on, on every suitable opportunity throughout the session. It must then be met, and may as well, perhaps, be met and settled now as ever.

The remarks which I made the other day, very brief as they were, have been subjected to some scrutiny, and my positions denied. I deem it necessary to support and defend the ground I then took, if I can.

In the first place, I was then of opinion, and I remain of opinion now, that the principle of this amendment is inconsistent with the very nature of a private corporation, and that it proceeds upon a mistaken notion of what a corporation is. I stated then, and though it has been denied, I repeat it, that a corporation is a person, with the rights and the liabilities of a person. Created by law, it is a legal person. It may be the owner of property, real and personal, and possess a capital as any other person. It has an occupation, and conducts some lawful business. It enters into pecuniary and other engagements, and contracts obligations. The courts are open to it; it summons its adversary before the tribunals of justice to answer to it, and is itself summoned to respond in turn to others. It is amenable to courts, having jurisdiction, for the violation of penal enactments, and is liable to punishment for its legal offences; and it

is only not answerable for crimes, because in its nature it is incapable of committing them. It can not steal, or commit forgery, arson, or treason. Individuals may do so, and they may or may not be corporators, but corporations can not perpetrate such offences. A corporation then is a person, a legal being, and as such, and in that capacity, it ought to stand, as far as its nature will permit, on a footing of equality with all other persons before the law.

Now this principle of equal justice is violated, when it is proposed to compel a corporation by law, to give securities for the performance of all its pecuniary obligations, instead of leaving it, as in the case of all other persons, to those who may choose to contract with it, to take its individual responsibility, or demand farther security as they shall see fit. A corporation has, or should have, a fixed and ascertained capital on which it conducts its business; and that is the fund, and the only fund, to which those who deal with it are used to look. And with proper guards and checks, of which I am at all times in favor, there can be no doubt, that the community is quite as safe in its dealings with corporations, without this principle of suretyship, as it is in its dealings with natural persons. Beyond this point of equal safety, we ought not to attempt to go.

But this principle of personal responsibility imposed on the corporators, considered as it always is, in the light of a mere legal compulsion, securing the performance of a natural and equitable obligation, is at war with the very nature of the subject—as will, I think, be evident enough, by considering for a moment the inherent and unconquerable difficulty there is, and always must be, in the

way of fixing the limit of this personal liability, on any just and equitable basis.

The notion is, that the individuals comprising the company, ought in justice and good faith, to be compelled to perform all their engagements made by or for them, since those engagements are supposed to be made for the common benefit of all, and therefore for the personal benefit of each. Taking this for the principle on which the personal liability should be imposed, then it becomes necessary to ascertain on whom that liability ought to rest; for if it be imposed on any person who has not shared, and could not share, in any benefit or advantage, if there was any arising from the supposed engagement, great injustice would of course be done.

The object of such a rule of personal liability as is contemplated in the amendment before us, would be to hold those corporators responsible who should be such at the time of commencing a suit, and this is the usual course I believe in such cases. But in the first place, we know that the members of corporations aggregate, are constantly changing. Every sale of stock is a change of corporators. One individual goes out and another comes in; and it might well happen, and I dare say some times does, that a few months or days even, may be enough in which to complete a change so entire that not one person shall be a corporator at the end, who was so at the beginning of the period. And then it is the practice of corporations to make periodical dividends, always, if at all, out of profits, and in such a manner as to prevent accumulations. Now what probability, I might almost say what chance is there, that in a prosecution against corporators, on a contract or en-



gement entered into by the corporation, they will be found to be such as were corporators when the contract was made, or when it was broken, or such as participated in any degree, or could have participated, in the benefits, if any, arising out of the contract? It is evident that the persons held responsible, may have become members perhaps only one hour before the suit is brought, while their predecessors have taken by way of dividend, with others, all the profits and advantage which had accrued to the corporation out of the engagement. And here, of course, would be a gross injustice, and a total failure to fix the liability where it ought to rest, on the principle of personal benefit. The same difficulty lies in the way of any other rule so far as I know, which ever has been, or can be, adopted—as to fix the liability on the original corporators only, or on such as should be so when the contract or engagement may be made; or those who should be members when the breach should occur.

All these difficulties I think have been felt in Massachusetts, where, for some twenty years, commencing I believe in 1809, the principle of personal liability for corporate debts in the case of the manufacturing corporations, was maintained, though with various and repeated changes in the rule. No rule, however, was ever found which could make the principle just or equitable in its application; and after persevering until it had driven millions of manufacturing capital out of the state, the principle itself was finally abandoned, as I understand, except in cases where there should be a failure to pay in the capital. In this state there is, in the general law regulating and controlling corporations, a similar

provision, subjecting members of corporations to personal liability when the capital has not been paid in; and another provision by which, in case of insolvency, fraud is presumed, and personal liability imposed unless that presumption is rebutted by proof. Here, I think, is security and liability enough, and farther than this I hold it is neither reasonable nor right to go.

But, Mr. Chairman, from the moment when the amendment now before the House was offered, I have been impressed with the belief that it originated, not so much in any apprehension that the community needed this sort of supposed protection, as in the fact that, out of this House, if not in it, there existed an unworthy prejudice against corporations, and every thing bearing the name, and a fixed design in some quarters, right or wrong, to cripple, and if possible destroy them. Much of this feeling in the community is doubtless honest, but it is not the less mischievous for that reason, and whenever it is honest, it prevails only because wrong and unjust notions are entertained of the true character and value of corporations. Believing this, I ventured in a few words the other day, to speak of these institutions as having been intimately connected in their history with the progress of the arts, and with the advance which our race had made in civilization, in learning, in refinement, and in civil liberty. I was aware that such a declaration must have grated harshly on some ears, and, as I expected, an attempt has since been made on this floor, to deny the position I had assumed. It was suggested that, while the remark I had made presented a remarkable coincidence with one to be found in the learned opinion of some learned judge (but which I had

been so unfortunate as never to have read or seen) I had not, like the same learned judge, been careful to distinguish between corporations public or political, and corporations private; and that while it was admitted that the former were entitled to some favorable consideration in the point of view presented by me, that commendation was, to say the least of it, wholly undeserved by the latter.

Sir, I think I understood what I meant to say the other day; I think I said just what I intended to say; and I now take upon me to re-affirm the proposition I then made, as broadly as it was then uttered, and as it was then understood. And so far from admitting, according to the distinction attempted to be drawn, that private corporations have had no connexion with, or have not in any way aided, the progress of civilization, learning and liberty, while political corporations have, I affirm that the latter, thus acknowledged to have had so favorable an influence, probably originated and took their rise in private corporations. I speak of this subject principally from a general impression, in which, however, though my reading on the subject is by no means fresh, I think I cannot be mistaken. And I shall trouble the committee with a few observations to illustrate my position.

Under the Roman government, private corporations seem to have been first known, though traceable perhaps to the Greeks. To authorize associations with corporate powers and privileges, the *express* consent of the government was necessary. They were generally companies of tradesmen, called in the civil law, colleges and universities. Now it is remarkable, that no sooner

was the commonwealth at an end, and the empire established, than it was discovered by the emperors that these associations had been nurseries of faction and disorder—in better language, because truer, they had become nurseries of liberty, and great numbers of them, of such especially as could not protect themselves under the prompt exhibition of an express charter, were early dissolved. An instance of this jealousy is given at a late period, when the emperor Trajan refused to incorporate a fire company for Nicomedia, of one hundred and fifty men, though recommended by Pliny, after a destructive conflagration in that city; placing his refusal expressly on the ground that these societies had become mischievous to the public peace—in other words, they were accustomed more than others, to exhibit symptoms of restlessness under despotic power. These corporations, especially where there was a number of them in the same town or city, it is easy to see, would exercise a controlling power. Engaged in mechanical or commercial employments, and brought into close union and sympathy with each other, they were more likely to possess property, skill, and mental cultivation than most other classes, and to resist oppression or unjust exactions, they had the constant advantage of a combination already formed. To a considerable extent they governed themselves under their own by-laws, and by means of corporate officers elected by themselves, and who stood to them in many things in the place of magistrates.

The first that we know of political corporations as such, probably originated in this way. These private associations became wealthy and influential—at least

they were substantial and strong; and they were enabled, in the progress of events, to command a charter, adding to the corporate privileges which each society separately possessed, new privileges of a political and municipal character for the benefit of the whole. In pursuing her conquests of arms, Rome encountered many nations quite in advance of herself in the arts; and her custom was to adopt and found towns, granting them political privileges of considerable value: and there can be no doubt, that it was in these municipalities that the forms of popular election and privilege were preserved, after the empire under which they were established was ended, and that they finally contributed to the foundation of liberty in modern Europe, through the establishment of towns having similar and more extended corporate privileges and exemptions.

When the feudal system of Europe had become, in its political effect, not only burdensome but oppressive beyond any former example of tyranny, the relief came by means of the exercise of corporate rights in cities and towns. The inhabitants of these cities and towns were for the most part engaged in various trades, sometimes, as in Venice and Genoa, in commerce. They had already gained comparative wealth and importance. They existed in associations or societies, each exercising corporate rights and privileges, sometimes with, and sometimes without express authority. It was natural that they should gradually slide into the exercise of political powers within the narrow sphere of their business operations. Happily, the condition of Europe at the time favored the assumption of such powers. The crusades drew off the sovereigns, or at least occupied their atten-

tion ; and while they were impoverishing themselves in these enterprises, their subjects, many of them, were growing rich and powerful. The commercial cities of Italy were among the earliest to avail themselves of this state of things, and soon found themselves, partly by concession or grant, and partly by actual purchase, in possession of independence for all the purposes of local government. The example was followed elsewhere ; in the Low Countries very early, in France, in England, and to some extent in Germany. These towns and cities at first, as I have said, apparently occupied only with trades people and *gilds*, grouped into private corporations, thus steadily acquiring personal importance and political power, taking something by grant or favor, assuming other rights, and buying of their needy sovereigns still larger privileges, grew at length into republics, the more important and interesting as they were long the only depositories and nurseries of these liberal principles which lie at the foundation of modern liberty. It was here that men first gained exemption from some of the most odious exactions of feudal tyranny. The freeman of the town could dispose of his property by deed or will, which no vassal could do ; dying, he might choose his own guardian for his children ; he could give his daughter in marriage without purchasing the privilege ; he could prosecute his lawsuit without being obliged to resort to the lord's court. The elective and representative principles were in vigorous and successful operation, and the people were trained to an independence and freedom which existed nowhere else. Finally, they gained or assumed the right of bearing arms, and having surrounded their towns with walls,

they prepared themselves to offer warlike resistance to oppression and injustice, come from whatever quarter they might. They went farther in some instances,—as in Holland—and actually confederated for mutual protection and defence, constituting a federal compact, a government, for this single purpose, and placing themselves under federal officers of their own choice.

The jealousy existing between the sovereigns and the great barons, was favorable to the encouragement and growth of freedom in the towns. The former were glad to interpose these towns between themselves and their turbulent and haughty lords; and it was principally the same consideration which induced them to favor the claims of the agricultural portion of their subjects to enfranchisement—claims which, serfs and slaves as they were, attached to, and passing with the soil, might have slumbered long but for the example of exemption and freedom set them by the towns. It was, I think, in the fourteenth century that the enfranchisement of this whole class was accomplished, or at least attempted, in France, by a general order from the sovereign.

I have taken this slight historical view for the purpose of showing the rise and progress of liberty—democratic liberty—in modern times, and for the sake of inferring, as I do, that corporations—private corporations, had originally much to do with it. It has been said, and I believe with truth, that the first *express* charters to political or municipal corporations, were given in imitation of the licenses to private and commercial companies, and as a consequence of the existence of these latter corporations. And if entitled to any part of the credit of having given birth to the great principle of local adminis-

tration under special charters, then we cannot know how much more credit they really deserve, until we have evidence how wide-spread and how invaluable to freedom that principle has become. Look at that principle in its application and practice in our own country. We have a general government which is a corporation with an express written charter from the people. Each state government is also a corporation with a similar charter, and the whole local administration—the great school where democracy is studied, learned and practised—is conducted by means of corporations. Every county, every town, every city and every village, and every school district is a corporation. Our supervisors, our overseers of the poor, and our school commissioners, are all corporations.

But it is not merely the service rendered to liberty by their influence in bringing about the establishment of political corporations, on which I wish to rest the claims of private corporations to general consideration and favor. I think their own individual and direct operation is to advance mankind in wealth, in morals, in refinement, and in freedom—and that on strictly democratic principles. This would seem to be inferrible from the fact that these institutions have always prevailed most, where we find these principles to have been most fully developed, and most strictly acted upon. They are not I believe in much use, or held in much estimation in Russia, or in Austria. France is only beginning to understand their value, while in England they have been adopted and used extensively, and with great effect and advantage.

It is however in this country alone, that their full im-



portance has been seen and felt. With us, the great point is to elevate the mass of men—the people as a body. One important step towards this object, is to secure to every man sacredly, the fruits of his own industry and enterprise. But this is only a beginning. Property tends to accumulation in a few hands; and the policy of other governments has been to preserve and perpetuate it in a few hands. Our policy is a different one; we think it important to distribute and equalize it, as far as may be without interfering with individual right, and the due encouragement of individual exertion. Now for one, I confess I know of no instrumentality more efficient for both objects, than that of our private corporations for business enterprises. In this way the smallest surplus returns of individual industry may be securely and profitably employed. An interest is awakened in subjects and modes of human exertion, of which the mass of men would otherwise have no knowledge; and they come not only to concern themselves with new forms of business, but to participate in the profits which arise from them. They enjoy not only the fruits of their own personal labor, but they share in the returns and advantages which flow from the employment of capital and skill. No one, indeed, can look at the subject—at least it seems so to me—and not perceive how powerful and how favorable must be the influence of these associations on the habits and character of the people. The number and variety of our corporations engaged in the prosecution of private business—for they are still private, however public may be the use of them—are very great. Money and currency are furnished by them; insurance is effected by them; manufacturing and commercial business is

conducted by them; they construct turnpikes and bridges, and rail-roads and canals. If we look at the great works of internal improvement only, in this country, carried forward by means of corporations—works which in other countries less free and democratic, if prosecuted at all, must be either in the hands of wealthy individuals, or become the corrupt and corrupting jobs of the government—we cannot fail to be struck with their immense value, as the means by which the most magnificent projects and the most splendid enterprises may be conducted and realized, not only without danger, but with positive advantage to republican habits and republican institutions.

But this is not all. We have other private corporations in almost every department of social life. In this mode it is that Charity and Benevolence make to society and humanity their most costly offerings—establishing and endowing hospitals, asylums and retreats. In this mode it is that Education and Learning are cherished and encouraged—with incorporated colleges and academies, institutes, historical, scientific and literary societies, museums, galleries and libraries, all devoted to this great service. And finally, it is in this mode almost exclusively, that the public ceremonies of religious worship are supported and sustained—a mode by which the numerous sects into which the religious public is divided, are enabled, each for itself, without question or molestation, to conduct their own worship according to their own consciences, and all with entire freedom from any corrupting association with government protection or government patronage. Let gentlemen look at all these things, and then say if they deem it possible that civil society could

be what it now is, in this age, and in this country, if corporations had not existed and did not now exist—so moral, so intellectual, so cultivated, so free!

But, Mr. Chairman, I shall not pursue the subject. The position which I formerly advanced, and which I have now endeavored briefly to illustrate and sustain, is not matter of opinion merely; it is rather matter of fact, matter of history, of record and of evidence—and if I am wrong, gentlemen to whom these views may be unacceptable, will find no difficulty in showing the error and setting me right.

Sir, I have not presented this subject to the committee without an object. I am in favor of well regulated and carefully guarded corporations, and I wish to defend them against what I am afraid is a growing prejudice—a prejudice which many well-disposed persons, and more that are ill-disposed, are careful to feed and inflame. It must be well understood by this time, that some of us on this floor are of opinion, that there is a destructive spirit abroad in this land, which requires to be strictly watched and promptly and resolutely opposed, whenever and wherever it may appear. It is a spirit—bold enough sometimes—claiming to understand democracy in its essence and purity, better than any body else, and claiming to have the courage which others have not, to act always on its theoretic doctrines, and carry them out to their conclusions, lead where they may. It is a spirit which professes to watch for the security of the poor and the abject, and looks with jealousy and distrust on the thrifty and the opulent—a spirit which would be better satisfied with nature, if the surface of the earth presented one unbroken level; if there were no lofty eminences to cast their

shadows over the humble valleys ; no broad-armed oaks rising up to protect, or to shame, the stunted shrubs beside them ; no spots greener than any other spots, none richer, none more beautiful ; if all men rose to the same height, attained the same weight and dimensions, moved in the same sphere, spoke with the same voice, bloomed with same complexion, and thought or drivelled, as the case might be, with the same intellect. It is a spirit which wars—I hope for the most part ignorantly—with nearly all the valuable institutions of society, in the unfounded and ignorant belief, or pretence, that they advance individual interests at the expense of the mass, widening the essential differences already existing in society, and tending to aristocratic distinctions, to the oppression of the humble, and to the destruction of equality and liberty—ignorant and unfounded pretences all. Now, sir, I shall not undertake to say that the evident presence of that same spirit can be detected here, but so much I will say, that I do implore gentlemen, in behalf of our common and beloved country, to examine well their own positions, and take care that they do not, whether unconsciously or by design, so act their parts here as to minister to that spirit elsewhere.

## SPEECH

IN THE ASSEMBLY OF NEW YORK, DELIVERED FEB. 14,  
1838, ON THE RESOLUTIONS INTRODUCED BY MR. HOL-  
LEY RESPECTING THE SUB-TREASURY SCHEME.

[Mr. Holley, as chairman of a select committee had presented Resolutions, condemning, and protesting against, the Sub-Treasury Scheme, and the course of the administration at Washington, and that at Albany, in regard to it, which were now under consideration in the house. The Resolutions were designed to be forwarded to the Senators and Representatives of the state in Congress, as expressing the sense of the Assembly touching the matters embraced in them.

Mr. SPEAKER—In considering the present attitude of the national government towards the country and the people, my mind has been agitated with conflicting emotions. I have been alternately filled with indignation, and subdued and depressed under a feeling of humiliation and sorrow. At one time, I have thought that I could pour out on the authors of our ruin, prepared and preparing, denunciations and curses, the wrath, the scorn, the defiance, which becomes the free citizen of a free republic, subjected in his person, in his principles, and in his country, to insult and oppression. And again, when another and a different train of thought and reflection has passed through my mind—when I have considered who they are who are engaged in this war upon us; how bold, how presuming, how confident they are; how

steadily they pursue their object; the means of corrupting influence they possess; their unscrupulous use of those means; their unblushing appeals to whatever can inflame the worst passions, or move the meanest propensities of mankind; and when I have thought what they have already accomplished in this way, and been forced to compute the probabilities of their future success, in some degree, by their actual successes already achieved—when I have thought of all these things, I confess my heart has sunk within me, and I have found it difficult to preserve and maintain that manliness of spirit, that enduring hope, that unfailing confidence in the republic, which ought never to desert the bosom of the patriotic citizen.

Sir, it is with feelings such as those I have faintly sketched, that I approach the discussion of the subject now occupying the attention of the house, and the tone and temper of my remarks will of course be influenced, more or less, by those feelings. And I have referred to this personal matter only for the purpose of affording to those who hear me, if of any consequence either to myself or others, a way of accounting for any apparent want of zeal or spirit in presenting my views. I shall not certainly undertake to give security, or assurance, before hand, how I may be affected in the progress of my remarks. I can only say, that, at present, I am calm. And one thing is settled with me: and that is, that passion—I mean honest, virtuous passion, such as may come and go and leave no stain—though by no means out of place on this subject, can be attended with no advantage, while it might unfit the mind for that free and unembarrassed action of all its powers and

faculties which the occasion so urgently demands. I shall endeavor to keep myself collected, and judging from the feelings which now oppress me, I think I am in little danger of losing my self-possession—perhaps I may find it difficult to warm myself up even to a becoming degree of animation and earnestness.

Sir, the leading measure of the government at this time, is embodied in what is called the Sub-Treasury Scheme. This is that distinguishing measure which, if adopted, will mark the difference between this and all preceding administrations. This is that measure on which the administration must stand or fall, before the country and the world. This is that measure on which the country must divide—those who are for it standing on the left hand, and those who are against it on the right. Those who favor this measure will support the administration, and those who are opposed to it will oppose the administration. If the administration is right in this, it may well enough be trusted as being likely to be right in every thing; and if wrong in this, then, in my judgment, it is so very wrong, that little injustice will be done it by supposing that it can hardly be right in any thing. If the administration shall succeed in this measure as proposed, and if the people can be brought to sustain it, then it seems to me that it matters very little what else it may see fit to do, or not to do. The constitution is changed. The government is changed; and instead of a republican country and a popular government, we shall have an empire, and a despotism. How long our republican forms may survive the event, I am not prophet enough to tell; but I feel certain that little of the essence of republican freedom will be left after it.

Mr. Speaker, the first reflection which forces itself on my mind as connected with this subject is, that, in order to prepare the way for the introduction of this Scheme, it was deemed necessary, on the part of the administration, to decline and refuse to perform, or attempt to perform, one of the plainest and most indispensable of the duties of the government under the constitution. I mean that duty, without which the country cannot be supplied with a sound and uniform national currency.

And when I speak of a national currency, I mean something different from a local or state currency. I mean a currency of general credit and uniform value all over the country. I mean a currency which shall be worth on the Penobscot, just what it is worth on the Mississippi. I mean a currency which, as a medium of exchange or payment, shall have the same value at the extremes of the Union; a medium such that a payment in Boston in that medium, and another in New-Orleans in the same medium of the same nominal amount, shall be payments of equal values; a medium in which funds may be transmitted and debts paid, without material loss, between the remotest quarters of this extended republic.

Such would be a national currency, and such are the uses of a national currency. And such a currency no state can furnish, or any number of states, any more than individual states can regulate trade between all the states, or establish and maintain a post-office for all the states. Such a currency can only be furnished by the general government; or if furnished by state banks, can only be regulated and have given to it a national character, by some authoritative control and direction of the



general government. And it is the duty of the government to see that the nation is furnished with such a currency.

It is, of course, no part of my present business to show how, by what mode or instrument, the government should perform that duty. The mode in which it *has* furnished a national currency for forty out of the forty-nine years of its existence, has been by a national bank. A mode in which it has *attempted*, at times, to furnish such a currency, has been by the adoption and regulation of state banks. The one has been a successful mode, the other has been unsuccessful. We know it may be done by a national bank ; perhaps it may be done by the adoption and use of the state banks. At some rate, this duty should be performed, and if it cannot be done otherwise than by a national bank, then I think such a bank should be created, which I believe to be a constitutional instrument, for the purpose. But if this duty can be performed without the agency of such a bank, then for one I would dispense with such an institution : inasmuch as serious doubts and difficulties are entertained, to a limited extent indeed, in regard to the right of the government to create such a corporation—and inasmuch, too, as such an institution always has been, and probably always would be, a standing theme for declamation and clamor from demagogues and dishonest politicians.

A proposition is now before the Senate of the United States, introduced by a distinguished Senator from Virginia, for the adoption, once more, of a limited number of state banks for the uses of the general government, and as the instruments by which that government shall

undertake to render that constitutional service to the country which is due to it, in regard to the currency. It is among the objects of the bill introduced by the Senator referred to, to provide, if possible, for such a correspondence between the adopted banks, situated of course in different and distant parts of the country, as may give to their respective issues a mutual and extended credit, and thus to fit those issues for use as a national currency. In regard to this part of the Senator's plan, I will say, that if it can be made successful, if it can be made to answer the purpose, and meet the wants of the nation, I shall be rejoiced at it; and as between that plan and this Sub-Treasury Scheme, although it embraces provisions to which I am and believe I always shall be strongly opposed, yet as between the two projects, for one I say, in the present condition of things, let the Virginia plan be tried.

But, sir, the administration is opposed to this mode, and it is opposed to any mode of furnishing or maintaining a national currency. And this, as I have said, is an abandonment of an essential power and duty of the government and the constitution. I shall not go into the argument of the constitutional power. That argument has been presented elsewhere, and with a demonstration, which I might repeat, but which I could not strengthen.

I may say, however, in general terms, that perhaps until the last six months, the power has always been exercised, and never doubted. The constitution provides expressly for a money of account for the United States. The government has the power of coinage, and the regulation of the value of coins. Gold and silver coins

were to be the standard money of the country, and nothing else was to be made a tender. The legal standard of value, the legal medium for the payment of debts, was prescribed in the constitution, and exclusive charge over it was given to the general government. It was no part of the business of such an instrument, and it did not undertake so far to descend to particulars, as to prescribe what should be the actual and practical medium of exchange in circulation—in what the actual and practical currency of the country should consist.

But the constitution was not wholly silent on this subject of the currency. That instrument prohibited the issue of bills of credit by the states, and it seems to me, by a plain inference, it prohibited the issue of such bills under the authority of the states. And what are bills of credit? Why, sir, according to my understanding of them, they are notes, designed to fulfil the uses of money, and circulating on the credit of the state, or the issuers, be they who they may. They are something very different from convertible bank paper—paper representing coin—paper the express title to coin—and such paper was left free to circulate, and I think it may be said that it was contemplated that it should circulate, and become, as inevitably it must, and legally might become, the actual currency of the country. At the date of the constitution, there were existing and in actual operation in the country, three state banks—three banks issuing convertible paper to circulate as money, and actually, to the extent of the issues, taking the place of coin in the channels of circulation; and nothing seems to have been further from the thoughts of the framers of the constitution, than to interfere injuri-

easy with these banks, or with their issues: The use and necessity of convertible bank paper for currency instead of coin was as well understood at that time, as it is now. And it seems to me, that to suppose, as some do, that, in the face of facts like these referred to, power was given to the general government to create a standard money for the country in the shape of coins, and that it was designed at the same time to withhold from that government the power to regulate and control that which might legally, and would of necessity, take its place in circulation as its representative, is to charge on the framers of the constitution a want of common intelligence and sagacity in no degree merited.

Sir, it was expressly made the duty of the general government to regulate trade between the states. Now it was very well understood, I suppose, at that day, and has always since been well understood—at least until within a very recent period—that internal trade could not be carried on without a currency. Barter may be; but commercial trade cannot, any more than transportation can be carried on without highways by land or water; without an ocean, without rivers, canals, roads or railways, or without ships, boats, wagons or cars. A currency is not merely convenient to trade, or even essential to it as an incident to a principal; it is, as has been elsewhere said, a part of it, as much a part of it as a steam engine is part of a steam-boat; and we might as well expect such a boat fitted for propulsion in that and no other way, to move off at command without her engine, as to expect the internal trade of a country to move forward without a currency; and to suppose that at the date of the constitution, it was expected that the inter-

nal trade of such a country as this was to be carried on and conducted with coin, with gold and silver only, is, I think, to suppose an absurdity.

I think it was understood and anticipated that commercial business did and would require a commercial currency, to consist of convertible paper, and that the new government would have a duty to perform in regard to that currency, without which it could not discharge its express constitutional obligations of regulating the commerce. It was one of the principal objects, leading to the formation of the government, to give to the commerce of the country a national character, and that it could never have, without a currency having the like character.

The domestic trade of this country, in amount and value, is very great. It is vastly more important and extensive than the foreign trade. The commerce of the coast and navigable rivers alone, is greater than the foreign commerce. The tonnage employed in the coasting trade and fisheries, exceeds that employed in the foreign trade, and the vessels thus employed make from three to twenty voyages in a year. And then we have to add to this, all that amount of trade, not easily calculated, between the terminating points of sloop and steamboat navigation on the coast and rivers, and the vast and wide-spread interior. Now the interests of this immense trade are placed by the constitution under the care and regulation of the general government, and, with it, is imposed on that government the duty of providing or maintaining a fit and proper currency for the conducting and carrying on of that trade, and without which the trade cannot be said to be regulated and taken care of.

A state currency, a local currency, however perfect in itself, is utterly insufficient and incompetent for this purpose.

The states do furnish currencies; not one but many; not one but twenty-six currencies. And without the direct and authoritative interference of the general government, no such thing as a national currency ever has existed, or ever can exist. If the states separately can so far regulate domestic trade as to provide for it a general and uniform currency, they can do various other things for all the states just as well. They can about as well regulate foreign commerce, as internal commerce. They may coin money and regulate the value of coins. They may establish post-offices and post-roads; they may declare war; raise and support armies; provide and maintain a navy; lay and collect taxes. If the idea is that the states can mutually agree in regard to commerce and the currency, they can mutually agree also in regard to other objects confided to the general government—a notion at war with abundant ante-constitutional experience, and having no other foundation than that, as far as the interests of the country are concerned, we can do very well without a general government, and that the only good reason why it should be preserved is, that the interest and benefit of the government itself, or of the government officials, require it. And this notion seems to accord with the opinions of the president. He thinks that the people expect too much from government. The whole spirit and burthen of his message to congress at the special session was, that it is enough for the government, if it takes care of itself.

Now it is that most important constitutional duty in

regard to the commerce and currency of the country, which I have referred to, which the administration has seen fit to repudiate and renounce. The administration denies that any such duty belongs to it, and it refuses, in the most decided terms, to perform any such duty. In his special message to congress, Mr. Van Buren expressed himself on this subject, not indeed very plainly, but yet, when examined, unequivocally.

"If therefore," said he, "I refrain from suggesting to congress any specific plan for regulating the exchanges of the country: relieving mercantile embarrassments; or interfering with the ordinary operations of foreign or domestic commerce; it is from a conviction that such measures are not within the constitutional province of the general government."

And such is the beginning of this extraordinary movement on the part of the administration. It begins with a distinct and explicit disavowal of any obligation to perform what has always been admitted to be an essential constitutional duty. It abandons a principal power of the government: and that power one which, if exercised at all, must be exercised for the benefit of the whole country; and this it does for the sake of using another power for its own especial benefit. It is the beginning of a system by which, if followed out, the plain and necessary powers of the general government, granted as all its powers were, with a scrupulous reference to the interests of the country, may be given up and discarded—giving place to other powers so construed, and so used, as to make their exercise result in almost exclusive advantage to the government.

But, Mr. Speaker, I turn now to consider what this

**Sub-Treasury Scheme** is which the administration proposes to adopt, and to which it has thought it necessary to sacrifice preliminarily an essential constitutional power of the government.

In practice, from the earliest time, except from the necessity of the case, the government, and no officer of the government, has been allowed to have the actual possession and keeping of large sums of public money. We have had a treasury; and in common language we are often said to have money in the treasury—sometimes very large amounts. But strictly, there has been more fiction about this than fact. Congress, or the proper functionaries acting for congress, have managed the public money just as all considerable private dealers have managed their money. It has been deposited; that is to say, it has been changed from cash in hand into mere credits—cash credits which may be commanded for use at pleasure—but still credits, and not money. Even when, under the far famed Specie Circular, the government was in the receipt of millions of gold and silver, I suppose it was generally without a dollar of specie on hand in the treasury, or elsewhere. The money was deposited in banks as fast as received, and thus became the property of the banks, and the government had, in exchange, credits, but not cash. And the same thing was true when there was said to have been a large surplus in the treasury.

The government went into operation in 1789, and in February, 1791, the first bank of the United States was established, and became the depository of the duty bonds and public money of the country. When the charter of that bank expired in 1811, twenty-one state and district



banks were adopted as depositories. In 1816, the late bank of the United States was chartered, and became, and continued to be, the depository of public moneys until 1833; when the state banks were again adopted and used for this purpose, and continued to be so used until May last, when they suspended payments in specie.

On the happening of this latter event, the mode of keeping the public money was changed; the Sub-Treasury Scheme was begun. The revenue was directed to be collected, kept, and disbursed in gold and silver. Of this practice and policy, as attempted to be justified by the circumstances of the case, I have only to say, that it was not according to precedent. In the fall of 1814, there was a suspension of specie payments by the banks south of New-England; and from that time till the bank of the United States was chartered in 1816, the revenues of the Union, south of New-England, consisted wholly of treasury notes, and deposits in non-specie paying banks. The government at that time submitted to the same law of necessity in business which was the law of the whole country. And that was a republican government, and a republican administration—but the times are changed.

It is now proposed, by the administration, to establish the Sub-Treasury plan on a permanent footing, and as a permanent policy. The former, long tried and well understood method of making deposits—exchanging cash for cash credits—is to be abandoned; and instead of that we are to have that other system—the favorite system of two classes, and of two classes only, I believe, in any business and commercial community—I mean misers and despots. The government is now to set up for

a grand proprietor, a wealthy dealer in money—in gold and silver—trusting nobody but its own dependents and creatures; having a train of treasuries, with their vaults, safes, bolts, and massive keys—the centre being at Washington, and ten thousand dependencies linked to it, and scattered throughout the length and breadth of the land.

Now if not only the framing of the law for the establishment of this scheme, but the ultimate control over the whole operation and execution of it, was in the hands of congress; if no other hands than such as congress might designate and control, such as should be responsible to congress alone and not to the president, could have the handling of the money; still I should think it a scheme fraught with danger to the constitution and the country. I should think that government, under its necessary operation, could not fail to become corrupt and despotic. I should think that the people instead of *being* masters would *have* masters; money masters, and those the worst of masters and tyrants, such as the possession and handling of money are apt to make. I should be of opinion that the treasures of the nation would be unsafe, for I should have no confidence in bonds and sureties—in this lock-up and turnkey system. I should expect to see public defaulters multiplied. I should expect to see embezzlements, robbery, arson, murder, become the order of the day, and of the night. I should expect to see our penitentiaries crowded with more numerous inmates, the gallows trod by a more numerous tenantry, and the whole land filled with violence and outrage.

Looking at this scheme in the most favorable light, I see in it nothing better than a cold-hearted, selfish po-

licy, productive of no good to any body, but the government or its retainers, and in the present state of things likely to end in universal distress and ruin.

I see in it a hostile spirit towards the state institutions in their present perilous condition, towards those important agencies established and employed in all the states in aid of commerce and the currency; or rather I see in it a war of extermination on commerce and the currency, and therefore a war on the interest and the business of every man, rich or poor, in this widely extended country.

I see in it the means of now bringing in that hard-money policy, not for the government only, but for the whole country, which we know to have been heretofore the favorite policy of some who were high in power; a policy which they aimed to establish, first of all, through the agency and support of a party in this country which was low in knowledge and lower still in principle—a policy now, however, which, if it can once be fastened on the people for a time, is then to be thrown off, at least, for the government itself and its favorites, and for which abundant provision is made in the details of the plan, looking to paper issues by the government, and the free use of drafts, checks and certificates of deposits circulating between the various branches and strongholds of the treasury.

I see in it a settled purpose to separate the government from the people; to erect the government into something apart from and independent of the people; something which shall have a separate and independent existence, and become a property for the use and enjoyment of those who may be in possession of power and the offices;

and something moreover, which may be perpetuated and transmitted, under the influence and patronage which their new position will give, in just such a line of descent and inheritance as the interest or affection of the proprietors for the time being, may prompt them to appoint.

But, Mr. Speaker, there is another, and to my mind a more serious and alarming view of this subject; and if we would understand the full import of this Scheme; we must go back a little, and inquire into certain constitutional doctrines of the administration, having a most important and ominous relation to it. And I do not hesitate to affirm that, taken in connection with the doctrines referred to, this Scheme, if adopted, *must completely change the relation in which the government stands to the people and the country.* We shall have a new government, such as the constitution never contemplated, and such as cannot consist with liberty.

Sir, that government of ours, which was created and put in operation in 1789, was an agency adopted by the people of the United States for their own purposes;—a corporation, to which form, body and faculties were given, by written charter, to enable it, and for the sole purpose of enabling it, to render certain services to the country, with a view to the common good. Such is an American constitutional government; and thus is an American constitutional government distinguished from all preceding governments, and from all coterminous governments in other parts of the world. It has been the principal achievement of our time and country, that we have demonstrated the practicability of framing a government with all adequate powers; and yet so con-

stituted, by means of a skilful partition and limitation of those powers, that the government cannot use its powers to separate itself in interest from the people, and erect itself into a condition of independence. The great vice of governments before us, had been that, whatever form they might assume, they had in effect a separate and independent existence, above the people rather than of the people; having interests and possessing objects other than those of the people, different from and antagonist to them.

This vice was supposed to have been excluded, and effectually guarded against, in our system. The point of greatest difficulty undoubtedly was to manage the executive department of the government. It was necessary to create a head, or chief, of this department; and it was necessary to clothe this functionary with large authority, and even with considerable discretionary power. And universal experience had shown that where much power is given, more is usually coveted; that executive power especially is full of charms; that the executive office is prone to set up for independence, and draw away after it other powers and other functionaries, and finally to separate itself from the constituency, and become a power and a property apart from the people and above the people. The great problem, of course, was how to make the executive effective, and yet escape this danger; and that problem was supposed to have been solved, and for the first time, in our American constitutions; and it was supposed to have been solved also, and for the first time, in the case of a great and widely extended nation, when the constitution of the United States was framed.

The constitution gave to the president the power of

nomination to the principal offices. It gave him, not indeed any part of the power of legislation, but the right to arrest legislation by a voice equal to that of two-thirds in number of those comprising the legislative department. It made it his business to take care that the laws be executed; and it gave him the command of the army and the navy—only making him subject to answer, by impeachment, for any abuse of his authority. Of course it did not entrust him with any portion of the legislative or judicial power, and it was at great pains to limit and define very exactly, the extent of his executive authority. There was one power, in particular, and above all others, with which I think it is manifest, it was intended the president should never intermeddle, neither in whole nor in part—a power with which he should have no concern, and over which he should have no control. I shall be understood of course to refer to the money power—the most delicate, the most dangerous of all political power confided to human hands.

In regard to the revenues of the country, there are several trusts which must be confided to somebody. In the first place, the revenue must be raised; then it must be received, kept and managed till wanted for use; and finally it must be disbursed. Now I hold it to be of the very essence of our system, that neither of these trusts, nor any part of either of them, should be confided to the president. The first trust—that of raising the revenue—belongs to the legislature. This is conceded by every body; and so does the last trust—that of disbursement—so far as the purposes and objects to which the money is to be applied, are concerned. But that intermediate trust—the duty of receiving, keeping and ma-

naging the revenue, together with that of paying it out according to legislative direction—how are these duties to be executed? They are, in their nature, executive duties. There is something to be done and performed in obedience to order and authority. Have these duties been confided to the head of the executive departments—to the president? Far from it. This would have been to go back to former systems, and place the power where it would be sure to be abused. This would have been to adopt a distinguishing and marked feature of a monarchy, or an autocracy. No: This power was placed in far other hands.

If we look into the constitution, and turn to the *enumerated* powers of the president, we find not the slightest intimation that any portion of this power was to be confided to him. On the contrary, we shall find, on examination, that it was entrusted wholly to Congress. The very first enumerated power of Congress is the power, not only to lay taxes, but to *collect* taxes, and to *pay debts*. And congress also has power to *borrow money*, to *support* as well as raise armies, and to *maintain* as well as provide a navy. And to congress is given in express terms, the power of disposition over "the territory or other *property* belonging to the United States."

When the government came to be organized under the constitution, a treasury department was created, and that department was arranged in strict conformity with the frame of the constitution—an independant department, independant I mean of the president, and instituted for the express purpose of receiving and managing the revenue: and made, in the act, responsible directly, not to the president, but to congress to whom it

was to report. I conclude that congress, and congress alone, according to the constitution and the law, has the ultimate superintending and directing power over the treasures of the nation, and those who may have the immediate charge of them.

Sir, it would be extraordinary if it had been otherwise. When the constitution of the United States was framed, the American people had had some experience in government on their own peculiar plan. And surely, they had known no other principle and no other practice in regard to this important money power, than such as I suppose to have been adopted in the frame of the general government. Never, I believe, in a single instance, had the people in any state confided this power to the executive. I have looked into the constitutions of the *old thirteen*, and it is evident enough from the care with which, in all these states, the appointment of the treasurers has been reserved either to the people, or to the immediate representatives of the people, that the danger of entrusting any part of this power to the executive was well understood. It is believed to be the invariable and universal practice in the states, that the legislature is the body to which all the fiscal agents and officers respond, and which has the undisputed control of the public purse, or at least of those who are appointed to take charge of it.

Sir, this seems to me to be one of the most prominent among those peculiar features of our system which have made it what it is, a free and republican system—a constitutional and American system. In that country which had made the greatest advance in freedom before our time, the people had early learned the importance of re-

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serving to themselves; or their representatives, the money power. But they regarded the subject chiefly in a single point of view. Their doctrine was that if revenue was to be raised, the people must tax themselves by their representatives in parliament: for otherwise no man's property was his own. It was the king's; for if the king could take a part without consent, he could take the whole. And a people who had nothing they could call their own were slaves. Hence it was settled that the king could have no revenue, except from personal or royal possessions, unless by grant from the commons. The commons, therefore, were accustomed to *give and grant* a revenue to the king. And, undoubtedly, this right of withholding revenue from the king was a most important and indispensable check on the sovereign. But all this was very far from establishing what we call constitutional liberty, or reducing government to what we understand to be a free constitutional government. For still government was a thing apart from and above the people; a thing in which the sovereign had a personal and paramount interest and property. It was *his* government—his freehold—to be held and enjoyed by him as such; with a conceded obligation, indeed, so to conduct and manage its affairs as to give protection and security to the subject, and promote the common good, provided only these objects could be attained without any serious interruption to the enjoyment of his own rights, privileges and immunities, as the undisputed property of government. This was and is the English system; and how much better than most other European systems I need not stop to say.

But this is not our system. We *give and grant* money to nobody ; neither to the president, nor to the secretary of the treasury, nor to any body else. We, by our representatives, raise money for our own purposes ; we direct the application of it to such objects as we please, and keep the management of it under our own control, or the control of our representatives, until we cause it to be paid out where it is due. This is our system ; and unless that system be preserved, in every feature of it, we have no longer such a government as that with which we set out.

Now while such is our system ; while such is the doctrine of the law and the constitution on this subject, let us see what are the doctrines of the administration on the same subject.

In April, 1834, the late president of the United States sent to the senate his Protest, in which he took occasion to set forth, very fully his notions in regard to the powers and duties of the presidential office. It will be remembered, that shortly before this time, the public moneys were held in deposit by the bank of the United States, where they had been placed by law. The president had intimated a desire for their removal to the state banks. The subject was considered in the house of representatives, on an intimation that the money was unsafe in the hands of the bank, and that house came to the resolution that the money was entirely safe, and no cause existed for the removal. Shortly after the adjournment of congress, the president came to the decision that the bank of the United States should no longer have the keeping of the deposits, and he required the secretary of the treasury, under whose control the law

had placed them, to remove them. Mr. Duane, then secretary, refused to comply with this order. The president removed him from his office *for this sole cause*; and appointed another individual to that office, who came in with the understanding that he would obey the will of the executive. The new secretary then promptly removed the deposits, and placed them where he was directed to place them—in certain selected state banks. When congress came together the next session, the senate passed a resolution condemnatory of the conduct of the president, and it was on the occasion of that resolution that he sent his Protest. And now let us look at some of the positions of that extraordinary document.

[Mr. BARNARD here read several paragraphs from the Protest, and then proceeded.]

Mr. Speaker, I had occasion, when this celebrated state paper was received, to draw up, which I did with considerable care, an abstract of the constitutional doctrines contained in it; and as the house will now be well able to judge of the accuracy of the abstract, I will take the liberty of reading such portions of it, as may be applicable to the business in hand.

#### DOCTRINES CONTAINED IN THE PROTEST.

“That the whole executive power of the government, and every part and fraction of it, is vested in the president, and that he alone is responsible for its exercise, whether the power be exercised by himself in person, or by any other functionary.”

“That all the duties imposed by law on any executive officer, from ‘the highest officer of state’ down ‘to the lowest subordinate,’ are duties imposed on the pre-

sident, and therefore he has a right to the absolute 'control' of every such officer."

"That every officer in the government, deriving his appointment through the president, or any officer under him, (except judges only) holds his office *by the tenure of his will*, and is removable by him *according to his pleasure*."

"That all the officers of the government, in every department of it, having any executive duty to perform, are merely the president's 'agents' and 'instruments,' chosen to aid him in the performance of *his* duties, and as such they are responsible to him."

"That the sole and exclusive custody of the public money belongs to the president, not so much that it is given to him by the constitution: but because it is 'an appropriate function,' or prerogative, of his office; and that congress can pass no law which would take the treasures of the country out of his hands."

Such are the positions and doctrines of the Protest; and as they were the doctrines of the last, so of course they are doctrines of the present administration. Mr. Van Buren came into office not only as the approved successor of Gen. Jackson, but he came in with a solemn promise to follow in the footsteps of his predecessor. Such then *are* the doctrines of the president, and the settled and approved doctrines of those who support and sustain him.

Let it be remembered, then, that, when the consent of congress shall once be obtained to the Sub-Treasury Scheme—to the plan of having the public money kept in hand, instead of being deposited as heretofore—from that hour, the president of the United States will have

the custody of it. With more heads and hands than Briareus, and with this singular advantage over that monster, that his heads and hands occupy various and distant quarters at the same time, he will be present every where, to clutch, and count, and hoard every dollar of collection wherever received through the vast territories of this Union. Every officer, and every depository, from the secretary of the treasury to the humblest postmaster, is his *agent* and *instrument*, dependent on his will, responsible to him and to him only, and existing merely to aid him in the performance of his duty.

Congress may declare who shall keep the public money, and where it shall be kept; but still, congress cannot take it out of his hands. He will still be the keeper, and the appointed place of keeping will be his place of keeping. Congress may create a principal treasury at Washington: the president will be there. It may convert the mint at Philadelphia and its branches elsewhere into treasuries, and the president will be there. It may make treasuries of the custom-houses at New-York and Boston, and the president will be there. It may establish treasuries at Charleston or St. Louis, and the president will be there. It may erect a treasury in every city, town, village and hamlet in the land, and wherever the treasures of the country are, there will the president be also.

• If there be an individual on this floor, or in this community, who can contemplate this state of things, without feeling that the condition of the country is changed, and that the cause of the Constitution is in danger, then I can only say that, that man's republican sensibilities are strangely blunted. To see the president about to be

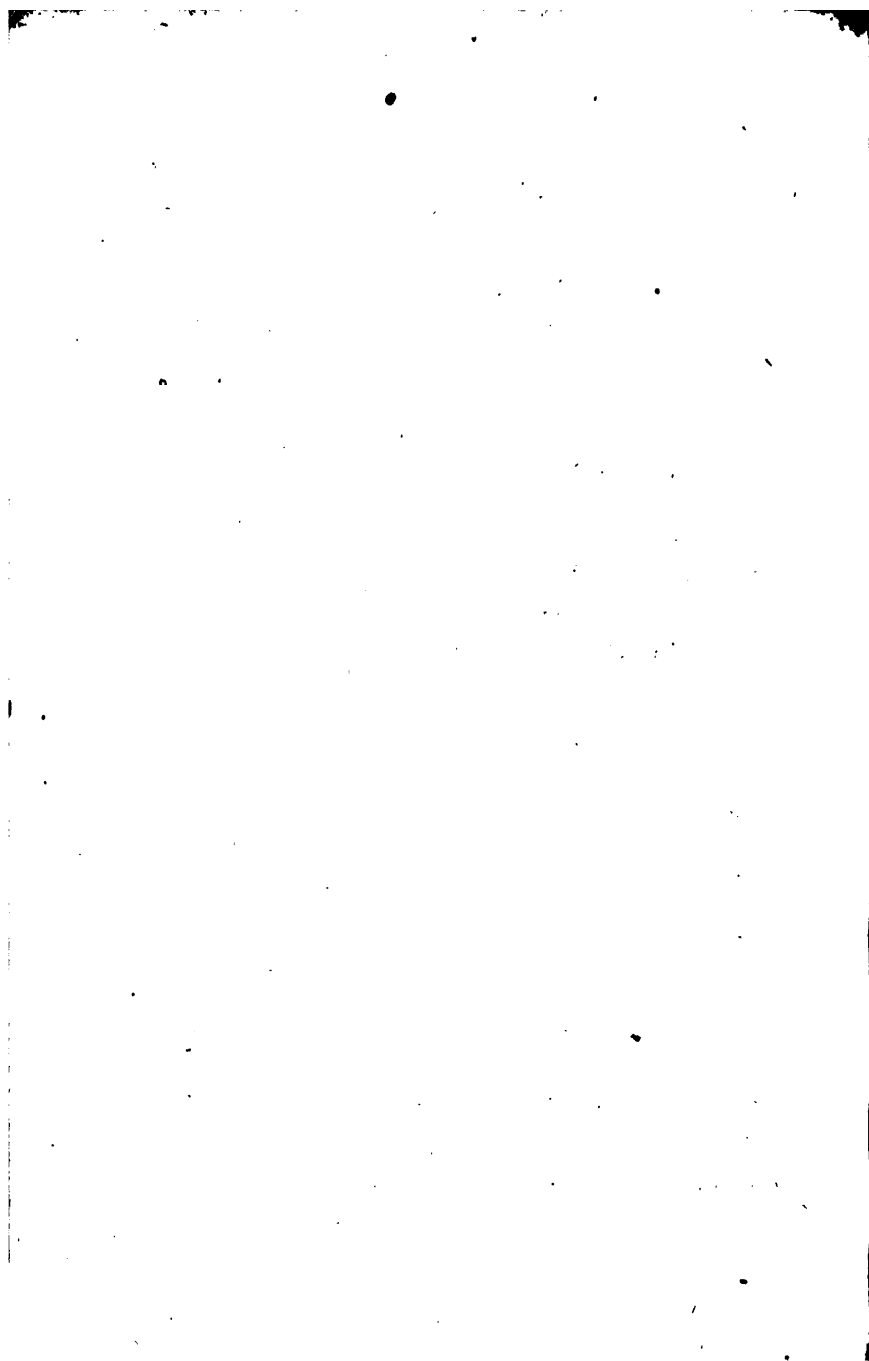
exalted to be a potentate of almost unrivalled power—to see him sit as a great money king over the nation—to see him invested with legal ubiquity, confined to no place, but present every where—commanding an army of retainers and slaves, created to do his will and perform his pleasure—attaching them to his person, and to his blazing car, by chains of gold and silver, never dimmed or fretted with rust, and so ductile that they may be drawn out to any required length, to extend to and embrace any possible increase in the numbers of those who may be called in to widen and swell the mighty and ominous circle—to see all this, and yet see nothing wrong, to feel no alarm, to find every thing republican, every thing democratic, every thing safe—to see all this and remain unmoved and unconcerned—others may if they will and can—I cannot.

Sir, the forms of government, the lifeless body of government, is nothing when the spirit is gone. The substance of the Roman constitution did not survive the battle of Pharsalia, but the forms of the Roman constitution were not yet overthrown. And Cæsar, in full possession of the public treasures, and in the enjoyment of actual and undisputed sovereignty, “bestriding the narrow world like a Colossus,” still contented himself with the consulship; and to the last he refused to assume the diadem or the title of king—but the Roman republic was not the less at an end for that reason.

Mr. Speaker—After what has fallen from me already, I need hardly add that I am in favor of the resolutions on your table. I desire to see them passed, as promptly as may be, and sent to the Senate of the United States, where, it is possible, that the principal actor, engaged in

preparing to bring out this tragic plot before the people, *may* feel bound, for the sake of consistency, if not of principle, to forbear any longer to give this nefarious project his support. At all events, we shall do our duty by adopting the resolutions.

And if, after all, when we and others, here, and elsewhere, have done all in our power to do, to arrest the administration in its mad, preposterous, and destructive career—if still it shall persist in its course; and then, if the people shall sustain the administration, as its friends confidently predict they will; if the American people, as I am not prepared to believe, shall consent to put on the fetters forged and forging for them, because wrought of gold and silver; if that great Luminary, the source of light and warmth to us, and of hope to the political world, must now be darkened in the heavens; if we must have, not indeed a brazen, but yet a metallic sky over our heads, from which no dews can descend to refresh, and no showers to fertilize; if we must inhabit a parched earth, and grope in settled gloom, and stumble on each other, without affection, without charity, without kindness, without confidence; if anarchy, if chaos, if confusion must come again; if we must meet disaster, and ruin, and conflict, and blood—why let the evil day come; and let it be our consolation that we labored to avert and avoid it, in office and out of office, in season and out of season, knowing no rest and no pleasures, so if by any possibility we might contribute to save and redeem our beloved country.





# REPORT

ON THE SUBJECT AND SYSTEM OF PUBLIC INSTRUCTION,  
IN THE STATE OF NEW-YORK, MADE IN ASSEMBLY,  
MARCH 7, 1838.

Mr. Barnard, from the committee on colleges, academies and common schools, to whom were referred so much of the Message of his Excellency the Governor, as relates to Public Instruction; the report of the Superintendent of common schools; and sundry Petitions from colleges and academies, for aid; and from inhabitants of various parts of this state, in regard to common schools, and the diffusion of Knowledge among the people,

## REPORTS:

The committee feel the full weight of the high duty imposed upon them. The most valuable interests of a great people, personal and political, for the present time, and for the future, are undoubtedly, in some degree, in their hands. At all times, the educational system of the state is a matter of deep and paramount importance; and on those who have charge of it, and on those who have any authoritative influence over it, must always rest a deep and lasting responsibility. But, at this time, the whole subject comes to us invested with new interest. The state is now possessed, and to be possessed, of new and ample means, in the income of a large fund, depo-

sited with it by the government of the United States ; and, it seems to be generally conceded, that these means shall be devoted exclusively to the purposes of education. The available fund, already deposited, amounts to nearly four millions of dollars ; and to this, will shortly be added a million and a third more, if the law of congress, as it now stands, shall be executed. With the income, arising from so liberal a fund, thrown on the hands of the state, and which is regarded, by common consent, as a new and perpetual endowment for our system of public instruction, a new and most responsible duty arises. An additional sum, already equal to twice the amount of that now commanded by the state, for the same purpose, is to be annually applied to the advancement of education, the spread of knowledge among the people, the forming of the popular character, and the preparing and perfecting of that broad basis of intelligence and virtue, on which alone can rest our republican forms, and the security and happiness of a great and growing community.

Your committee feel that, under these circumstances, it would be inexcusable in them, and in this legislature, not to review, and, perhaps, revise the whole plan of public instruction in this state. From this time, the state must be regarded as starting from a new point, as setting out in a new career, in regard to a matter of the first consequence ; and it cannot fail to depend very much on the manner in which this important trust shall be performed, whether we are to be a peaceful, prosperous, free and happy people, or a people, sunk, at no distant day, in misery—splendid misery it may be—broken into furious and contending factions, and passing through

every form of vice, and every form of violence, first into anarchy, and then under the iron hand of an oppressive, and, perhaps, bloody despotism.

The part which seems to be assigned to your committee in this work ; that of examining the plan of public instruction, as it now exists, pointing out its defects, and devising and preparing for the action of the assembly, such material changes and alterations in the system, and such new measures, as we may deem essential to the proper progress and advancement of this great interest ; this delicate and responsible service, has occupied much painful thought with us, much severe study and patient investigation. We submit the conclusions at which we have arrived, to the house, certainly with a sincere conviction that, in the main, they are right, and with an earnest hope that, if they shall meet with the favorable judgment of the legislature, they may be proved to be just by the practical working, the salutary and happy influence of the measures which may be adopted, as the result of these conclusions. At the same time, we may be allowed to say, that though we do not shrink from the responsibility of taking decided, perhaps, bold ground, yet this confidence is not wholly our own ; inasmuch, as we know that nothing that we may recommend can be adopted, until it shall have passed the patient scrutiny of both houses of the legislature, and met the sanction of their deliberate and united wisdom.

It has seemed desirable to your committee, at a time when the state is about to apply large additional means to the uses of education, and to adopt, as we hope, a permanent state system of public instruction on an extended and comprehensive plan, that the right and the

duty of the government in regard to the subject of popular education, should, if possible, be clearly and accurately defined. What constitutional right has the government to impose the burthen of taxation on individual property, or to employ the public funds, however obtained, for the furtherance of any such object as that of popular instruction? Is not education a personal advantage, accruing to the individual instructed, as much as the possession of property, or any other good—and by what right does the government undertake to bestow personal benefits at all, much more to compel one class of men, because they are men of substance, to bear the expense of benefits gratuitously bestowed on another class?

The right and duty in question, seem, to your committee, to rest mainly on two grounds.

In the first place, the power over education is one of the powers of *public police*, belonging essentially to government. It is one of those powers, the exercise of which, is indispensable to the preservation of society—to its integrity, and its healthy action. It rests on the same foundation as that which is employed in defining and taking cognizance of crime, in erecting courts, both of civil and of criminal jurisdiction, in establishing jails and penitentiaries, and in compelling the performance of contracts, and the reparation of injuries. In this point of view, it is one among a number of means to the same end, either of which, or all of which, may be freely used, according to the wisdom and discretion of the public authorities. All are lawful, and equally lawful and constitutional modes of action. In the present case, however, the choice is not a question of expediency or

economy only—though certainly important in the latter point of view; but it becomes a question of humanity also. For while it will always be necessary to provide for the punishment of offences against society, when committed, and for the compulsory observance of personal obligations, and redress of personal grievances, yet it is vastly preferable, undoubtedly, that, if such a thing were possible, there should be no grievances to be redressed, no broken promises, and no committed crimes. It is the aim, and the undoubted tendency of education, properly understood and conducted, to accomplish this object—an object of incalculable benefit to human society. As a measure, designed to operate only as a law of police, the public support of education goes behind all crime, and all injurious and disturbing action in society, and seeks to occupy the intellect and the affections of men, and simply by informing the mind and moulding the temper, by demonstrating that it is the interest and the happiness of each to be just and generous towards all, by letting a little light in on the understanding, and touching the heart, either to take from them the disposition to offend one another, or to injure society, or to arm them with strength of purpose to resist every temptation to do so.

But there is another and broader ground, still, on which to rest the power and duty of the state, in regard to education. That which we have already noticed, is enough for the authority, if the state choose to exercise it, and in the opinion of your committee, enough for the duty also. But the consideration which we now approach, is not only sufficient for the abundant justifica-

tion of authoritative action—it demands action, and the state could not justify itself to the people without it.

The people of this state, having united themselves together in a civil society, have agreed to secure to themselves, or to attempt to secure to themselves, the highest advantages of the social compact, through the agency of certain forms of government and administration.—We have adopted the representative system; and we start from the position, that the whole political power of the country, much of it for immediate exercise, and all of it by ultimate reference; is in the hands of the people. And, on this grand position, as a basis, do all our constitutional forms absolutely rest. But just as children are unfit to govern themselves, so are uneducated men, being still children, though of huge growth, unfit to govern themselves. In one mode or another, associations of such men always have had, and always will have, protectors and masters; and we hardly need add, that a people with masters of any sort, as the basis of a free representative system, is a contradiction in terms. It is evident, therefore, that popular cultivation, as diffusive and general as the numbers composing the republic, is indispensable to the preservation of our republican forms—and hence arises the great constitutional duty of the government. *It is the duty of self-preservation, according to its actual mode of existence, for the sake of the common good.* The highest good of the whole, as a body, is the object in view; that good is to be attained only, according to the very terms of the original compact, through our adopted forms; and the duty of preserving and maintaining those forms, in their vigor and purity, becomes, at once, the very

highest duty and obligation of those who are entrusted with the administration. It is a duty, every instant, and perpetually, in force. No change of administration can affect it; and the moment it is denied or neglected, that moment is the cause of the republic repudiated and betrayed.

It is easy, we think, to know when this duty of maintaining our constitutional forms, by the care which is taken of the structure on which they rest, is in the way of being faithfully performed. The duty is *not* well provided for, unless some rational plan of public instruction shall have been devised and adopted, the object and the probable effect of which shall be, to lead to the cultivation of every child in the community, at least so far as to fit them all; without exception to the extent of their capabilities, for an intelligent discharge of the common and ordinary duties and responsibilities of social and political life, to which all, or nearly all, are called by the very conditions of our social and political forms. The future mother must be educated in every female child—a matter not to be neglected if we would have men in the republic; and in every male child, must be educated the future elector, juror, and local administrator.

The duty of being educated is, undoubtedly, one of positive obligation, resting on every citizen, as part of the original compact between every citizen and the whole body of citizens; and as far as instruction is attainable in youth, the obligation rests on parents and guardians. It is a duty which by no means concerns the individual only; it is one in which every other individual, and the whole community have a deep interest. The verdict of jurors, and the decision of a contested election, perhaps

by the casting vote of a single person, are matters of vast concernment to others, besides those who render the verdict, or turn the election.

But while there can be no doubt about this personal duty, and the claims which the community has on every member in regard to it, it is clearly one which could not, especially with us, be enforced by any direct and arbitrary exercise of power. Happily, we think, nothing of this sort is necessary, any more than it would be desirable.

There are evidently two difficulties in the case to contend with. One of them is, that so long as men differ in endowment and in the allotments of Providence, and so long as the rights of property shall be respected, there will always be a considerable portion of the community unable, for want of the necessary means, to sustain the expenses of education. Whenever this is the case, we hold it to be the duty of the state to supply the necessary means; and on this principle the state has long acted.

The other difficulty in the case is the more serious one of the two. It is, that perhaps a large majority of those who have the means of meeting the necessary outlays for the proper education of their children, are not disposed to use them for any such purpose. The burthen in many cases is undoubtedly a heavy one, and it is difficult to convince parents of the unquestionable truth, that they can make no provision for their offspring by pecuniary aids, which can in any degree compensate for the want of adequate mental and moral cultivation.

This is a difficulty to be met by the state, with measures of a delicate character—measures calculated to in-



duce and to persuade—measures aiming to bring in public opinion to its aid, and appealing at once to the good sense, the pride, and the interest of the parties concerned. Whatever compulsory action is resorted to, must be of a gentle and paternal character, and be surrounded and accompanied with every circumstance of kindness, and with whatever is best adapted to move and to interest. Such, in a great measure, has been and is the nature of the system of public instruction long in operation in this state, so far as designed to meet the difficulty here suggested; and your committee propose some important measures, regarded by them as worthy of great consideration, not certainly to change materially the features of the system in this respect, but to modify them, and if possible to give them efficiency.

There is one other test to which your committee would refer, as one by which we may know whether the state has performed, or is performing, its great constitutional duty of self-preservation for the common good, by taking due care of the subject of popular instruction. That test is, whether or not the system be such as makes education a thing of practicable and probable attainment by the class of the comparatively indigent. For if it be otherwise, there can be no security for the continuance of our constitutional forms. In this age of the world, the rich in any civilized community will be educated; and if the poor cannot be, and are not, the necessary consequence is, that a separation takes place. Knowledge is power, and it will be exercised; and a selfish aristocracy, formed of those who are at the same time rich and educated, will bear the class of the indigent and ignorant to the wall. The community being once di-

vided into these two great classes, it matters little, to the present argument at least, whether the powerful bear sway wisely and well, or oppressively: in either case the balance is destroyed which makes our government what it is; our constitutional forms are not preserved; and so much of common good as depended upon them, much or little, is sacrificed.

Nor is it enough, in our judgment, to satisfy the demands of the test now referred to, that our common schools are made accessible to all classes, the poorest as well as the better conditioned. If the system stopped here, it would aid in creating the very distinction and separation which ought to be avoided. In the first place the condition of the common schools themselves must be elevated; and if it is not, the consequence will soon be, that they will come to be regarded as the seminaries of the poor, when the rich will desert them; yielding them neither countenance nor support any further than forced to do so, or contributing to sustain them, like other institutions for the poor, as public charities. The condition of these schools then must be elevated. They must be common places of resort for all classes as far as possible, where the youth of the same neighborhood, however otherwise separated, may meet, as youth now meet in our academies and colleges, to sacrifice all distinctions except such as grow out of various success in the prosecution of the same studies.

But this is not all; the way to the higher schools—to the academies and colleges—must be open, at least to the young man of genius and enterprise among the classes of the indigent, as well as to his more wealthy rival.

There is one way, and only one in which this can be done; and that is, by such liberal endowment of the better schools, by private munificence and state patronage, as will bring down the wages of instruction to the person taught, to a moderate sum. When this is accomplished, the balance between the wealthy and poorer classes will be easily struck; for though their relative numbers will still be unequal in these schools, the sum of knowledge and intellectual power among the sturdy and ambitious sons of poverty, will be, out and out, equal to that acquired and displayed by the more numerous class of those among whom must always be many whom indulgence and luxury have enervated.

Your committee are happy in having it in their power to state that the principle here suggested in relation to the higher schools, is one which has long been recognized and acted on in this state: and it needs only to be carried out and properly applied to make it efficient in producing the best and most auspicious results.

Your committee would now ask attention more particularly to the system of public instruction in this state, and to the measures proposed by us for its improvement. We speak of course only of those scholastic institutions to which the public bounty flows, and which are under the care and supervision of the public authorities.

These institutions are; first, common schools; second, academies; third, colleges; and fourth, a State University; this last, however, never having yet become a school, but only existing as a board of inspection and visitation.

To begin with the common schools. Your committee suppose that it must be conceded on all hands, that

the children of this state who receive instruction in these schools, are, in no degree, educated as they ought to be. Apply to them the test of qualification already stated in this report, and it is certain that the mass fall vastly below the proper standard; and we do not hesitate to affirm, that it is just as important as the continued existence of peace, security and republican freedom among us, that a decided effort should at once be made to elevate the standard of instruction in the common schools. With every year, nay, with every month's delay, the army of the uneducated is reinforced with frightful numbers; and we are of opinion that nothing but prompt action can save us.

And why are the five hundred thousand children of the state, though attending school, for the most part uneducated? We would repeat, and we would, if possible, teach every parent in the state to repeat, after M. Cousin, the pregnant maxim—"As is the master so is the school." It is simply because the schools are not supplied with good teachers that we have not good schools.

To this point then, the attention of your committee has been earnestly directed; and after entertaining a variety of propositions on the subject, we have come to the conclusion on the whole, that it is better to take the plan already adopted by the regents of the university, for the instruction of common school teachers, rather than to attempt a new one, and to give it at once sufficient extension to adapt it to the exigencies of the state. We propose therefore, that there shall be a department for the education of teachers in one academy in every county of the state; and we are satisfied, after mature examination, that, while the presence of a normal school

in each county cannot fail to be salutary in its influence on many accounts, there will be no more than a competent supply of teachers from these sources, whether for the immediate or the permanent demand, provided only we can succeed in creating and increasing that demand as we think will be done, if the measures which we contemplate for that end shall meet with the favor and approbation of the legislature.

It is undoubtedly true that, in the present state of popular education, and with the prevalent indifference to the whole subject in the districts, no very great number of well qualified instructors would meet with employment, at competent wages, in the district schools. It would not be enough, therefore, to furnish well-taught teachers. They would still be forced to seek employment elsewhere, or in other and more profitable occupations. By doing only so much, therefore, we should do nothing valuable. We must go further, and prepare the way, if possible, for the prompt introduction of the masters we may furnish, into the ready and well-paid service of popular instruction. And it is the attempt to solve this most difficult problem, which has cost your committee more anxiety and labor than every thing else connected with the entire subject. We will submit to the house the result of our deliberations on this important point.

And first, we propose to make the establishment of district libraries, heretofore attempted in this state by a law of 1835, imperative and certain, as prayed for by various petitions before us. The law, as it now stands, *authorizes* each district to tax itself for this object; twenty dollars the first year, and ten dollars every year after-

wards. We propose that the same sums shall still be realized for these objects; but that the state shall furnish half; while it shall be the duty of the districts, without choice, to tax their own property for the remainder.

The law as it now stands has been nearly a nullity. We can hear of but few, exceedingly few districts, who have availed themselves of its provisions. Some solitary libraries, however, have been established after great efforts and sacrifices on the part of individuals; and from these we have the most satisfactory testimony that the benefits flowing from them have exceeded the highest expectations of the most sanguine advocates of the plan.

To secure the benefits of these libraries at all, we are entirely satisfied that it is indispensable to make the levying of the tax on the districts compulsory; but while the state commands in this matter, as it ought to, we think it should also show a becoming liberality; and this it will do by appropriating more than one hundred thousand dollars the first year to this single object.

The committee would not disguise that they regard the establishment of these libraries as a thing of the very last consequence; and if refused by the legislature, they are free to confess that they shall look to all substantial improvement in the common school system, as something rather to be despaired of, than to be expected or hoped for. With these libraries in possession, it is calculated, on proper and sufficient data, that between seven and eight millions of volumes of books will at once be brought into use and perusal in this state, where now scarcely a book is read; and that seven or eight hundred thousand persons, male and female, young and old, will become attentive and instructed

readers, of whom scarcely one is now entitled to the name of reader. Who can undertake to compute the sum of benefits arising from such a condition of things?—the intellectual tastes and habits that may be formed—the new sympathies springing up between parent and child—the desertion of old haunts of dissipation and old habits of vice—the new and swarming births of thought and fancy that must occur—the occasional discoveries which genius may make of itself and its wonderful powers and impulses—the passions that shall be calmed—the differences that shall be healed—the broils that shall be quieted and allayed—the families, and neighborhoods, and country that shall be blessed,—who can contemplate all this, and more that might be thought of, and not tremble, as a man and a patriot, with the apprehension lest the country should lose, or fail, through any cause, to realize benefits so immense and so indispensable?

It will be seen that the committee place great reliance on the establishment of district libraries, in their influence on both parents and children, as a principal means of leading to the employment of competent teachers. But there are other means also on which we greatly rely.

One of these is the very direct one of increasing very largely the fund appropriated by law for the payment of teachers' wages. It is proposed to double the sum supplied from the state treasury for this object; to double also the sum which the property in the several towns now pays by compulsory taxation; and finally, to authorize the towns to double the sum which they are now allowed to raise by *voluntary* taxation.

In this way the whole sum which would go into the hands of the commissioners of common schools as public school moneys for distribution among the districts, would be about equal to the whole sum, including rate-bills, which was paid for teachers' wages, so late as 1833, and would fall but little more than one hundred thousand dollars short of the whole sum thus paid, according to the last year's returns.

But the committee are unwilling to allow this large increase of public moneys for annual distribution, without making an effort to secure a correspondent exertion and liberality on the part of those who furnish children for the schools. If this be not secured, more harm will be done than good. If higher wages are not to be paid to teachers than before; if the services of a better order of instructors are not to be required; if the standard is not to be materially raised, then will this additional public bounty be wasted, and the extraordinary burthen of taxation which property will be made to bear, be only oppressive and tyrannical; because in no degree useful. The poor who are unable to pay rate-bills will receive no more benefit from the schools than they now do; while those who are able but unwilling to pay will wholly escape the payment of their just proportion of the expenses of tuition for their own children, by casting the whole burthen on the state and on property.

To avoid the evils here suggested, and to secure the employment of qualified teachers at fair prices, as fast as they can be found or furnished, the committee propose two or three changes of some importance in the details of the common school system.

It is proposed, in the first place, to establish a mimi-



imum of prices as the wages of instruction in the schools receiving any share of the public moneys—the monthly wages of the male teachers to be not less than fifteen dollars; and those of female teachers not less than ten—at the same time extending the term during which the school must be kept in each year, from three months, which is the present requisition of the law, to six months.

In connection with this new provision in regard to wages, the committee recommend a slight, but yet, as we believe, an important change in the manner of ascertaining the qualification of teachers. The whole subject of local inspection undoubtedly demands revision. At present, however, we only propose that candidates for teachers of a certain description of schools to which we shall presently refer, shall only be admitted to examination by the local inspectors on their presenting some proper testimonial of their scholarship from some of the higher schools, academies or colleges; and that in all cases the candidates for teachers of common schools shall be examined by, or under the direction of, the inspectors, in certain studies and subjects which shall be, from time to time, named and prescribed by the superintendent.

With the same object and result in view, it is next proposed to make a most important change in the principle on which the additional funds, whether derived from the state treasury or from local taxation, shall be distributed among the districts. On the plan now proposed, the apportionment by the superintendent of the whole of the school moneys will be made precisely as heretofore, among the several counties, towns and cities; and the new mode of distribution applies only to the

moneys in the hands of the commissioners of each town. The proposition is, that in each town one equal half of the public school moneys in the hands of the commissioners, instead of being apportioned as the whole has heretofore been, among the several districts in proportion to the number of children residing in each between certain ages, shall hereafter be apportioned in a ratio according to the average monthly rate of wages paid to teachers, for six months, in each of the several districts.

It is supposed that the business of teaching, like all other businesses requiring learning and skill, will, as a general thing, command wages and be paid for, as between those who practise it, according to excellence and superiority; and the proposed mode of apportioning a part of the public moneys among the districts is intended to operate directly as a bounty to those districts of any town which shall most faithfully serve the great cause of popular instruction, by employing the best teachers. And this method of apportionment is recommended with the more confidence, not only in its efficacy, but in its justice, because it may be made to appear, by an easy calculation, that while the bounty to one or two districts in a town which might be induced to give the highest rate of wages would be very considerable, yet the amounts distributed to the remaining districts would be only the merest trifle less than they would receive under the old mode of distribution. In the mean time, an example would be set in the town which could not fail to be of the happiest influence on all the districts, demonstrating to their observation the benefits of good instruction, and inciting to a mutual and healthy emulation.

But your committee propose still another way of reach-

ing, if possible, the great object in view, that of securing the employment of competent teachers, and elevating the standard of education in the common schools. It is evident that there is a strong tendency in the towns to an unnecessary and injurious multiplication of districts—thus vastly increasing the expenses of education without any corresponding benefits. And the committee have been disposed to put it in the power of two or more districts to consolidate, and to offer some inducements to them to do so, where it can be done judiciously. The point, however, to which our attention has here been chiefly directed, has been the importance, for the sake both of efficiency in teaching and of economy, of forming the younger, and the older and more advanced pupils into separate departments, or schools. It is certainly the most wretched economy to employ a male teacher at eighteen or twenty-five dollars a month, to instruct infants, when a well-qualified female could be employed at ten dollars, and, ten to one, perform the service the better of the two. Besides it is deemed a hopeless expectation to find men really qualified by their learning and talents to instruct youth from ten years old and upward as they ought to be, who will be employed, at any wages, to teach children of five.

To meet the case suggested, it is proposed, by your committee, to authorize several districts, not more than four, without dissolving the primary districts, to unite to form a high-school district and establish a district high-school. It is supposed that, without much expense, one of the district school-houses may be taken and fitted for the central school. If the remaining school-houses in the united districts will accommodate the primary

schools for the younger children, then the central school-house will need to have perhaps but a single apartment for the high-school; and otherwise, a separate apartment, so as to accommodate both schools under the same roof; would be required. In any event, the extra expense under this head would be very inconsiderable to the united districts.

It is proposed, as connected with this plan, to fix a minimum of monthly wages to be paid to the high-school teacher, of twenty-five dollars. This is deemed desirable, not only as likely to secure the services of proper instructors, but as establishing an elevated grade in the business of common-school instruction. And besides, it is demonstrable, that with this higher rate of wages to the high-school teacher, all the benefits of these superior schools may be secured to the towns and the children of the state, with very little, if any, additional expense, in the aggregate, for tuition. As take for example a town having twelve districts, the average in the state; and such town could support three district high-schools, with eight primary departments, all with qualified instructors, for wages scarcely more, if any, in the aggregate, than would be required to sustain the twelve district schools on their present footing.

The committee would add on this important point, that the plan here suggested is not wholly a new experiment. We have information of its having been voluntarily attempted in some towns in the interior of the state, and wherever tried it has been attended with complete success. We have no hesitation in commending the plan, in the strongest manner; to the favor of the house; and with some encouraging aid which it propos-

ed the state shall offer, towards furnishing these high schools with necessary apparatus, we are prepared to expect from the plan, if the legislature shall sanction it, the happiest and most satisfactory results.

We have now done with the common schools, after commending them, as we beg leave to do, with all the vast and inappreciable interests belonging to them, to the continued care and favor of the state; only adding, however, that a chief interest belonging to the consideration of the higher seminaries, to which we now for a moment pass, arises from the intimate connection between them and common schools, as part of the same system of public and popular education.

In regard to colleges and academies, we have already stated in this report a principal of vital importance, proper to influence and govern the action of the state in its patronage of these institutions. If there were no other reason, they should be sustained with aid from the public funds, as schools for the education of teachers; not merely where departments for that purpose are especially established, but every where if necessary. There is, however, another and equally cogent reason why such aid should be furnished, and that reason is found in the principle just referred to. We need not repeat it. Let it be enough to say, that the state ought to see that the doors of these institutions are open to the comparatively indigent; it will never do to permit education to become a monopoly of the rich. There is nothing indeed in the manner in which these higher schools are founded and constituted, tending to so unhappy a result; the property of the wealthy and the munificent is freely bestowed for their endowment, and thus their advantages are

brought within the reach of nearly all. When the necessary buildings are erected for the accommodation of faculty and students, and a proper library, museum, and apparatus furnished, for all which the student pays nothing or very little ; and especially when to this is added the endowment of professorships, or the possession of productive funds, so that the wages of instruction also are paid with but small contributions from the student or none at all ; then are these schools placed on the right foundation ; then will they become nurseries of men trained for the cause and the service of the republic ; then, and then only, will they operate to check the growth of aristocratic pride and distinction, and promote that healthy equality without which we may perhaps have the forms of republicanism, but none of its essence or its benefits. It is easy enough, we think, to see, if the system as we have it, should be left to change itself into one in which the whole onerous expense of instruction in the higher schools—tuition, rents, the use of books, and apparatus, with all the necessary incidents—must be borne by the individuals instructed, that education could not be, and would not be, a thing in which the poor, or those in moderate circumstances, would have any part. And it is against every such tendency that we think the public ought strictly to guard ; and the state does, and may, materially aid in the matter, by a judicious application of its public funds to the encouragement and support of education in colleges and academies.

It will be seen by the bill prepared by the committee, that they propose to increase moderately the annual sum now distributed by law, among the academies of this

state, subject to the visitation of the regents; and also that a further sum shall be annually distributed among other academies, not yet perhaps so well endowed as those just named, and, therefore, more necessitous; taking care, however, that they shall all have the character of classical schools of the rank to which they claim to belong.

A principle seems to have obtained in the state heretofore, in regard to aid furnished to academies, which the committee are disposed to sustain. These institutions are numerous, and it is desirable they should be; and it is quite improbable that the treasury of the state could bear the drains upon it, if it was once adopted as a practice to make grants to academies of considerable sums, by way of endowment; as for the erection of buildings or to pay the debts incurred in the erection. It is believed to be decidedly better to look, as heretofore, to voluntary and united contributions and private munificence, to supply to every academy the necessary erections for the accommodation of students, and then for the state to come in with its annual bounty, to aid in sustaining current expenses.

Colleges, in this respect, appear to your committee to stand on a footing somewhat different, and so they have been heretofore considered. The state has, in some instances, furnished very liberal pecuniary aid to the founding and building up of colleges. When the state was younger and individual wealth was less abundant than it now is, it is probable those colleges could not have existed, or been preserved, without such assistance. And even now, since private fortunes and means have greatly increased, the establishment and endowing of a college

out of individual contributions, is a thing not easily accomplished. The necessary cost of college buildings, and dwellings for the faculty, and of furniture, library, apparatus and museum, is very great; and if those who attempt such an enterprise are left to stand alone, it is only after years of effort, and toil, and anxiety, and sacrifice, that they can finally succeed. And it seems to your committee, on the whole, that there is no good reason why the past practice of the state in making direct grants to colleges for endowment, should be wholly pretermitted. The bounty of the state can never be called for, for this object, to any such extent as it heretofore has been. And no demand of the sort is at present made from any of the colleges.

The committee recommend, on the same principles on which current aid is afforded to academies, an annual appropriation, for a limited time, of six thousand dollars each, to Geneva college, and the University of the city of New-York; and four thousand dollars each, to Hamilton and Columbia colleges. All these institutions are embarrassed for want of current support, and we hope that at least the state will not see them sink under such embarrassments.

There is one topic more which the committee feel bound to touch before concluding their report. They present the subject with a brief but frank expression of their views and opinions, in order to place it in the possession of the house for review, and for the exercise of its better judgment. The subject is an important one, and it will be wholly for the house to say, whether the suggestions of the committee shall be acted upon at all, at the present session, or whether the whole subject shall be laid



over for such consideration as the community may see fit to bestow upon it.

We have already said, that the State University, as now constituted, is not a school. It is without locality, without endowment, without literary or scientific property. The regents form a board of inspection and visitation, for all departments of public instruction above the common schools. To the care of the latter a superintendent is appointed.

Now the changes which your committee would suggest, are in a great degree, organic. We will state them; but we will not undertake to sustain our views by argument or illustration.

We think in the first place, that there should be appointed in this state an officer who should be the head of the system, and called, perhaps, the President of Public Instruction. That his office should be wholly separated from any political office whatever, and, as far as may be, from every possible political connexion or interest. He should have especial charge of common schools and academies, and of the funds appropriated to them; and should devote himself exclusively to the work of improving and perfecting the system of which he would be the head. It is work enough to occupy all the time and the energies of any one man. The regents should still have the power of visitation over the colleges, properly supervisable by the State University; they reporting to the President, as the head of the system; and he reporting of course, in all things, to the legislature.

Finally, we think that the time has come when the State University should be something better than a

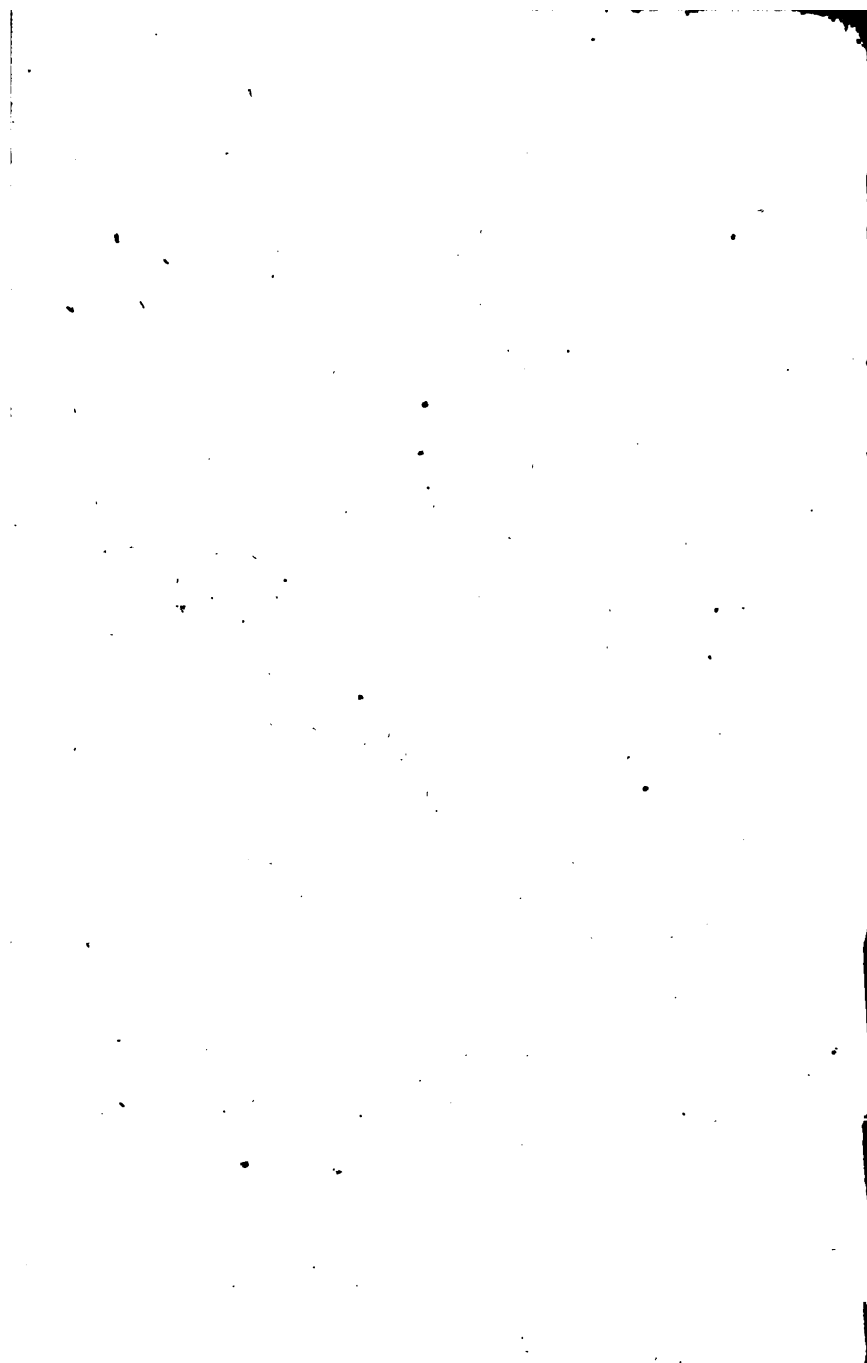
name. It is now a corporation ; give it, we say, a local habitation, and invest it with some of the usual signs of physical existence. . A beginning might be made by declaring by law that what is now known as the State Library, always to be located at the Capital and occupy apartments in the Capitol buildings, shall hereafter be known as the Library of the State University ; and let the funds for its increase, which should be more liberal than heretofore, as well as the Library, be placed in the hands of the regents. A moderate sum annually should be added, for the gradual establishment of an anatomical or other museum, to be located also at the Capital. In this way, it is supposed by your committee, that while the cause of science and learning would be immediately subserved, preparation might gradually be made for the University to enter on its proper business, as a school of instruction in the highest branches of learning, under well endowed professorships ; and thus the state and the country, in time, escape the reproach of being obliged to send the sons of the republic to other countries, and to kingdoms, with which we have little connexion and no congeniality or sympathy, for the advantages of education in its higher walks and attainments.

In the bill which we propose, will be found provisions answering to the suggestions which we have now submitted in respect to the reorganization of the executive department of public instruction.

In concluding this report, your committee would say, that they cannot trust themselves to speak of the subject of Education, in so grave a document as this, as they would like to speak—of its vast importance, its advantages, its necessity. In another place, we should in-

dulge in feelings and language which would not be becoming here. We should speak of the spectacle of an educated people—educated to the top of their faculties, as physical, organized, intellectual, moral and religious beings—educated above want and above pride, above fear and above reproach—educated to know what truth is, what charity is, what justice is, what liberty is—educated to be generous, and peaceful, and free, and happy—educated to understand, and feel, and respond to every call of duty and of patriotism—educated out of vice and meanness, and into lofty thoughts and noble sentiments—educated for home, for pleasure, for business—educated for themselves, for their families and kindred, for their friends and for their country. But we forbear. Such a country and such a people we believe ours ought to be, and may be.

The committee ask leave to bring in a bill.



## REMARKS

IN THE ASSEMBLY OF NEW-YORK, TOUCHING THE ECONOMIC POLICY OF AN EXTENDED SYSTEM OF INTERNAL IMPROVEMENTS; MARCH 13, 1838.

[Mr. Ruggles, Chairman of the Committee of Ways and means, had presented his Report on the Finances and Resources of the State; and a motion was pending for the printing of a large number of extra copies.]

MR. SPEAKER—For one, I am in no degree surprised at the course of remark in which the member from Herkimer (Mr. Mann) has now indulged. We have just listened, a delighted auditory, to the reading of a document, drawn up with most uncommon clearness, comprehensiveness and power, which is now to go out to the community, with the undoubted effect of waking up this great, and greatly abused people, from a long and heavy slumber, into which they were thrown some ten years ago, by the skilful *manipulations* of a distinguished citizen, then a member of the senate of this state. It was due to this house, constituted as it is, that such a Report as that we have now heard, should have been made; and we may look to that particular effect to be produced by it, to which I have just alluded, with entire confidence. Sir, it was clearly the design of the financial paper, produced by the distinguished senator referred to, in 1827, to aim a fatal blow at our great works of internal improvement, while it should at the

same time, if possible, strike down the character and influence of that great man under the auspices of whose name those works had been commenced and prosecuted. The effect of that paper, able and deceptive as it was, was unhappily too great; and from that day to the present, the policy of this state on the great subject affected by it, has been uncertain and timid, without any competent system, and without any such efficiency, or result, as the condition of the state, and the condition of things about us demanded. Now, sir, I hail the report just read as eminently fitted to expose the sophisms of the former financial paper, to dissipate the mists which have gathered over the state, and to wake us up at once to a sense of our past injuries, and to the perception of our true interests. And it would have been strange indeed, if such a document as this had been allowed to pass without some commentary, designed, as far as possible, to take off its edge, detract from its high merits, and weaken its certain influence. Let, therefore, gentlemen be indulged in pouring out their ill-disguised bitterness on the report. It can do no harm—good rather.

But, sir, I have been called up by the extraordinary doctrine which has been put forward by the member from Herkimer, in the course of his remarks. The alarm of *taxation* is sounded: and we have been told that it seems to be wholly forgotten, that a great system of internal improvements, such as is sketched in this Report as being within the financial resources of the state, can only be carried forward and sustained, by taxation upon the people, direct or indirect. Now, sir, the term *taxation* as here used is meant to convey an

idea of injustice and oppression ; for, in the same connexion, the member talks of the laboring poor, and those who live by the sweat of the brow, as likely to be ground down with taxes for the exclusive benefit of other classes ! He means I take it, when he talks of taxation, to be understood as employing the word much in that sense in which it is used to characterize the financial policy of other countries and other governments ; where the people are drained of their substance to support the government *for the benefit of the government*, and not, or only in a secondary degree, for the benefit of the people. It is in this odious sense, as a thing unjust and oppressive, that taxation is spoken of as the necessary consequence of any system of internal improvements prosecuted by the state—and this is done thus promptly as an earnest, that the cry of taxation, in other words, of injustice and oppression, is to be raised, as if the state were inhabited by an ignorant instead of an intelligent population, to frighten the community from the support of a policy in which their very highest and best interests are involved.

Sir, for myself, for this legislative body, and I believe I may say for this whole people, I repudiate the extraordinary notions referred to. They are unworthy of this place, and of this people. In our country let it be remembered, that governments are instituted for the benefit of the people, and not at all for the benefit of the governments ; and when the people sustain these governments by their means and substance, as they always do directly or indirectly, this is not taxation in any odious sense whatever—it is simply paying for a benefit of their own choosing, and in their own way. If government

is answering the end of its institution—if its policy and measures have that end in view, and if they result, as they must if they are wise, in the common good, then is the community paying for a common benefit, which could not very well be dispensed with, and which is always worth more than it costs. Sir, I am in favor of this sort of taxation; and if government could not be supported without *direct* taxation, why then I should be in favor of direct taxation, and I hope and believe the people of this country are intelligent enough to understand, in that case, what would be their duty and their interest. Shame on any republican community that would not.

And then to carry the principle from the ordinary business of government, to that important policy which makes so vast a part of the business of enlightened governments at the present day, and especially in this country:—The doctrine is as we have just heard it, that the state must not project and carry on extended works of internal improvements, because as government has no means of its own, and can expend nothing for such works but the means of the people, it is of course the people who pay for these works; and this is taxation—odious and oppressive taxation. Sir, what sort of doctrine is this, for this age and country? For whose benefit and advantage are these works undertaken? Not certainly for the government. If the ground had been taken, that the benefits to be derived to the community, from any contemplated system of internal improvement, would not be worth their cost to the people, that would have been fair ground at least, whatever might be thought of the soundness of the position. But that is



not the ground. It is, that, such system cannot be carried forward without means ; that the means belong to the people ; and that this is taxation, and taxation is oppressive to the people.

Sir, if this is good doctrine at all, it is good for more cases than the one to which it is applied. Taxation under such a government as ours is precisely what payment for benefits and advantages, voluntarily purchased by individuals, always is. And hence, if this doctrine be sound, a man must not employ a physician, because he would be taxed for it ; nor a schoolmaster, because he would be taxed for it ; nor a tailor to cut and fit him a coat, because he would be taxed for it. He must not travel on a turnpike, because he will be taxed for it : nor trust himself, or his property, on a rail-road, or a canal, or in a steamboat, because he would be taxed for it. The doctrine could not be satisfied, short of a mighty backward revolution in human affairs. The least that could be done in this state would be to fill up the canals, break up the rail-roads, and above all things to abandon the thousand uses to which the mighty power of steam is applied. We must forego the best blessings of civilization, and all the advantages arising from the present advanced state of the arts and of knowledge, because these are not to be enjoyed without taxation !

Sir, I hope not ; I believe not. For myself, and in the name of the people of this state, I reject the monstrous doctrine and argument. The people of this state, I answer for it, are ready and willing, not only to take the untold benefits of a judicious system of internal improvements, but to pay for them—in other words, they

are ready to make a reasonable outlay of their means and their credit, for the purchase of profit and advantage in return vastly beyond a mere equivalent, which is the whole effect of this odious and oppressive system of taxation, whenever and wherever it is wisely applied. The people are not paupers, seeking to have their essential wants supplied gratuitously, nor will they give up for ever the great and glorious advantages of their position, for an unmeaning cry of taxation that may be raised to alarm and deter them.

But I shall not pursue the subject. I am for the printing of the largest number which has been named of this remarkable document. Sir, let us give it wings—send it forth on every wind—we cannot spend the little money it will cost to better profit. It ought to, and will find its way to every quarter of the state, and of the country: Nay, it will be read with eagerness and admiration in other and distant lands.

## SPEECH

ON BANKING, CURRENCY, AND CREDIT, DELIVERED IN  
THE ASSEMBLY OF NEW-YORK, MARCH 29, 1838, UP-  
ON THE PASSAGE OF THE GENERAL BANKING LAW.

[The General Banking Law so called, authorized any person, or Association, to issue notes for circulation as money, on a pledge of State Stocks with the Comptroller, or a pledge of land and Stocks, one half of the amount at least being Stocks.]

Mr. BARNARD proposed to amend the bill in two particulars:

1st. Requiring the bankers under this law to keep their notes at par in the city of New-York.

2d. Requiring them to limit their issues to five times the average monthly amount of specie on hand.

The proportion of specie to circulation was first proposed by Mr. BARNARD to be fixed at *twenty* per cent; afterwards at *fifteen*. The bill finally passed both Houses with the proportion fixed at *twelve and a half* per cent.

The bill and amendments being under consideration, Mr. BARNARD spoke as follows:

Mr. CHAIRMAN: I have now a most responsible and a most embarrassing duty to perform. I occupy a position in regard to this bill, both before this house and before the country, which is neither pleasant nor com-

fortable. It is well known that I differ in opinion from those in this house, and out of it, with whom I am most anxious to agree, on the policy of this bill as it now stands, on what the true character of the bill is, and what is to be its operation and effect upon those great interests on which it is to act. This difference of opinion, I am afraid, is a radical and wide one. My friends, who are so ardent and so efficient in the support of this bill, seem to regard its grand feature—the security which it offers to the bill-holder—as one of perfect soundness and safety in all respects, and of inappreciable value. I look on that same feature with distrust, and see in it the seeds of mischief. With that feature in it, they behold in this bill the means of reviving the drooping commerce, the business, and the general prosperity of the country : while I am afraid that it is but too well calculated to be made a cover and shield for those whose business it is to prey on society, and that while in one quarter it may afford some immediate relief, elsewhere, and finally everywhere over the state, it will open the way to frauds and to intolerable evils.

On the other hand, I propose certain amendments, one of which in particular I think indispensable to the safe action of the bill, but which my friends regard as something at least fanciful if not absurd, resting in mere theory, of no practical utility anywhere and least of all here, and only embarrassing the free action of a system beautiful and altogether perfect in itself. They verily think they have happily hit on a project for banking, splendid and new, the wisest, the safest and the best ever yet devised, while I am so unfortunate as to view it, standing as it now does, rather in the light of another

experiment on the currency, not untried, but never tried with success or without mischief; another effort at tinkering the currency, and coming nigh to being a total departure from every sound and well established principle of banking.

Among the strenuous supporters of this bill in its present shape, I recognize many personal as well as political friends: many of experience and tried judgment in legislation and public affairs, and to whose opinions I should defer with pleasure anywhere—except here—except here—Mr. Chairman, in this Legislative Hall, where, though esteeming myself to be the humblest individual on the floor, I feel bound to maintain my position, even towards the loftiest and proudest of the people's representatives here, as an equal among equals. At the same time, it is not a little embarrassing to be obliged to set up opinions of mine, on so grave a subject as that now before us, against what seems at present to be the united strength, almost without exception, of that portion of the house with which I usually act. I cannot but be aware that in so doing I am liable to become the subject of unworthy thoughts, and perhaps of injurious expressions and imputations, in quarters where it would certainly be agreeable to stand well, and where I should much prefer to avoid all collisions. But I cannot, from any such considerations, shrink from the responsibilities of my office and my position. And if I am told, as has been more than once broadly intimated, that gentlemen's minds are made up, and that they are not to be moved, I answer that I do not admit it. As yet, though this measure has been long before the house, we have had little or no discussion of the principles involved in it.

For one, sir, I shall not forget that this is a deliberative body, assembled for the very purpose of deliberation, of discussion, and of debate. I shall not admit that such weighty matters as currency and credit are fit to be settled by any party movement or manœuvre in the house or out of it; or that it is either creditable or safe to legislate on such matters upon preconceived impressions, however strong, which have not been tested by examination and analysis. I shall take it for granted that the minds of gentlemen are still open to conviction, as my own mind certainly is. On both sides we have undoubtedly our present opinions; and my anxiety is, not, I trust, merely that my own should prevail, but that the best and soundest should prevail. I shall state my views plainly, addressing myself to the sense and understanding of those who hear me: and I invite gentlemen to the debate. If I am right, I desire to convince others; if I am wrong, I desire to be convinced. Let the argument be met and refuted, and I shall be found ready and prompt to yield my views and opinions, to the better views and opinions of others.

There is another topic to which I must here take the liberty to advert. The country is in a very disturbed state. It may be said to be passing through the condition of almost universal bankruptcy. It is now nearly a year since the banks suspended specie payments. In the mean time a steady effort has been made, in this state, to bring about again a sound and healthy state of things. The banks have perseveringly looked to a period of resumption within the year, and now just at hand. In this operation the currency has been contracted, prices have tended downwards, business has

been paralyzed, and men are everywhere looking around them for some means of relief, some way of escape from the crushing pressure of the times. They are not content to wait for the operation of natural causes, or the result of any prescriptions for political ills which do not promise an instantaneous and miraculous cure. Now many persons see in a general banking law the certain means of present relief. Their plans of operation under it are already formed. The bill before us authorizes associations for banking, with powers and facilities not very unlike those enjoyed by corporations; and there can be little doubt that, under it, an institution equally valuable and safe may be built up in the city of New-York, greatly to the relief and advantage of the commerce and business of the country. Undoubtedly, where the true condition of things is understood, where the true want of the community is felt and appreciated, and the true way of return to soundness and prosperity is discovered and known, the provisions of this bill may be used with eminent advantage and with entire safety. But this is a general law, and while at one point, and in judicious and discreet hands, it may be found to answer a valuable purpose, elsewhere and in other hands it may be found to be fruitful only of evil and mischief. This is my apprehension—I may say it is my conviction; and I do not therefore feel myself at liberty to yield to those strong influences which we know are brought to bear upon us all in favor of this measure, in behalf of particular interests and particular places. I should hope that my sympathies are not less strong, my nature not less generous, my disposition to relieve and to build up not less fixed and determined, than are these

qualities in others ; but I cannot consent to aid in, promoting any partial interest, however considerable, at the cost of the common safety ; I cannot consent to do even a great good at an expense still greater. Others, I know, do not see the dangers which I think I discover. They see very clearly certain advantages to flow from the system ; and it is not to be wondered at that they should be a little impatient with me for pretending to discover mischief where they can find nothing but unmixed good.

There is still another influence operating on the house from another quarter. The burthen of all songs just now is the distresses of the times ; and these are times when men become patriots at a very trifling cost. A judicious exhibition of ready sympathy, a timely lamentation over common calamities, with some ingenious and plausible suggestions for present relief, will make a man's reputation in a day. Unfortunately it happens that our patriots have, too often, some personal good, to be attained only through their schemes for the public advantage. I suppose it will not be unjust or improper to say that there is in the community a host of expectants and speculators, who are anxiously looking to this bill to help them out, or to help them on—a host which is not unrepresented in the house *below this*. These are persons of substance—at least they esteem themselves so—with property in abundance in possession or within reach, and which cannot be turned to profit or account, only because they lack money. Now they look on this bill in a truer light, I think, than some others. They see in it a license to men to create their own money, at least for temporary use, to any extent to which their



ability or their credit and ingenuity can supply, or command the means to make the necessary pledges. The passage of such a bill *would* be a jubilee to the whole class of the *poor rich*; and hence their patriotic anxieties are natural and urgent, and are felt of course first of all for their beloved country! They love their party; they love the state; they love the people. The people, moreover, have desired and expect a general banking law, and this is a general banking law, and the very thing for the people!

Sir, I confess it looks a little obstinate in me not to yield to the various suggestions and appeals coming from so many quarters, out of the house and in it, in favor of this bill. Certainly if I had consulted my ease I should have yielded long ago. Certainly too, if I could consent to stifle my sense of public duty in order to give chase to the bubble popularity—that popular favor I mean—which a breath can blow away as a breath creates—I should not stand here to advocate doctrines and opinions which I know to be distasteful, unwelcome, and to many I doubt not odious. But I shall do it. Yes, sir, I shall do it—and with one only anxiety—and that is, by the blessing of God, to bring conviction to the honest minds who hear me of the indispensable necessity of changing, at least in one essential particular, the character of this measure, before it shall be given to the community, in order to arrest a deep calamity to the state, which otherwise, in my judgment, will certainly be inflicted upon it.

Before proceeding with my principal purpose in this discussion, I will take leave to submit, in a very brief way, what I have to offer on my proposition requiring

the bankers under this law, whose offices may be situated elsewhere than in the city of New-York, to see that their bills are kept at par in that city. This proposition looks simply to *uniformity* in the currency. I hold it to have been, and to be, the duty of the general government to provide for the country a *uniform* national currency: such a currency, I mean, as shall be of equal value in every part, and in the most distant parts of the Union; such as shall command the same sum in gold and silver in the extreme north as in the extreme south, in the extreme west as in the extreme east. This is a duty which that government can perform, because it is one which it has performed. But unhappily that duty has been wholly abandoned. The existence of the power even, to regulate the currency, is denied and disclaimed. In this state of things, I am of opinion that the obligation on the several states, always strong, is now doubly so, to make their local currencies uniform within their respective limits. I know of nothing more discreditable to a highly commercial community than voluntarily to forego the advantages of a uniform medium of payment and exchange. Neither the business operations, nor the moral habits of a people can be steady and sound without it. Whatever is used as money should always, as far as possible, have a steady and uniform value; otherwise, prices will fluctuate, contracts will be varied, and profits and property become unstable, uncertain and precarious. The precious metals have been selected as the universal standard, chiefly because of this very quality of uniformity of value; and there is in truth no more difficulty, if government would do its duty, in keeping bank paper, really representing the

precious metals, at a uniform value, than there is in regulating the value of coins themselves.

It is a little singular that it is only within the last year, and while we have been using, by necessity, an inconvertible medium, that this state has ever been blessed with a local currency of uniform value. This was brought about by a provision of law, of doubtful validity, compelling the banks to take each others bills at par in payment of debts: that provision leading to an arrangement by which the bills of all the country banks became current in the city at the same value as they bore at the counters where they were issued. Before this, a dollar of country paper was not a dollar of money in the city, but something less: and to this extent such paper had not that quality of money which all paper ought to have. It is certainly to be desired, in my estimation, that a return to this loose condition of things should be prevented; and as we are now about to devise another and a new system of banking, I am anxious that the new issues at least shall have the character of uniformity. This is easily accomplished, and accomplished without any serious hardship or burthen anywhere. City paper is at par throughout the country, because it is in demand for remittance and payments. Not so with country paper in the city, nor can it be, so long as the course of trade remains what it is. The case can only be reached by legislation, for the country banks will not be at the trouble, or charge, of keeping their bills at par and preserving their money character in the metropolis, so long as the people can be made to bear the loss of their depreciation and discount. But let the banks be compelled to employ a portion of their city

funds, necessarily there in the course of trade, in the redemption of their paper afloat there, and the whole evil is at once cured. The profits of banking in this state, especially in the country, will be found to be large enough, though diminished in this way by a trifle. Nor do I deem it certain that any diminution of profits, on the whole, would follow from this regulation. There is and will be in the west, beyond the boundaries of our own state, a constant demand for a cash medium for remittance to the city of New-York, and if the bills of our country banks can be made such a medium, those banks may in some good degree supply that demand, and thus enjoy the benefits of a more extended circulation. At any rate, be the profits of banking a little greater or a little less, that is not, I trust, our chief concern: and I hold it to be the sacred duty of this legislature, when providing for issues of paper to circulate as money, to provide also that such issue shall be money and not merchandize, wherever they may circulate within the state. This can only be done by some such legislation as I have suggested.

But I leave this topic, to go to the more important and pressing business in hand. When statesmen and legislators propose a new measure of general import and application, it is to be presumed that they have in view some well defined object of practical benefit to be accomplished by it. What is the object in the measure now under consideration? It is very plain and easily understood. We mean to break down whatever there may seem to be of a monopoly character about the business of banking in this state. We mean to put an end to the disgraceful scramble, heretofore exhibited,

for bank charters, and for bank stocks, with all the moral and political corruptions which have attended the whole subject. But we do not mean, directly or indirectly, to break down and destroy our present system of banking, and build up another on its ruins—at least, if there be any such design, I am not privy to it. I suppose our object to be, plainly and simply, in passing a general banking law, to establish an auxiliary system to the one now existing, not an antagonist one, for the supply of capital and currency to the people of this state. In this object I most heartily concur. I see no difficulty in reaching the object, on sound and safe principles, and I see in its accomplishment the certain means of encouraging the industry and promoting the prosperity of the state.

But it becomes an important inquiry whether, in the pursuit of our object, we are about to employ a safe and judicious plan of operations, or one utterly unworthy and unsafe—whether, in short, we are in the right way, or the wrong. And this is a point which it is impossible to understand, as it seems to me, unless we will be content to pause a little, and recur to some very plain elementary principles connected with the subject in hand. I do not mean to inflict on the house a dissertation on political economy; but I desire to recall to the recollection of gentlemen some few simple truths; some few well-ascertained and settled laws, not the worse certainly for their scientific character, but which are equally maxims of common sense and common experience, though developed only after investigation and study, and which are not unessential to be remembered when we would legislate understandingly and well, on such deep and de-

licate matters as currency and credit. Let me say, also, that in recurring to the truths and laws alluded to, we have nothing to do with mere theories, whether my own or belonging to any body else. The doctrines belong to no individual and no name, any more than do the laws of nature herself. Like the doctrines of the Baconian or Newtonian philosophy, they are universally acknowledged wherever they are understood, and no writer or speaker at the present day, in any country, of admitted reputation, is found to deny or to doubt them. And I should feel ashamed to dwell upon such undisputed topics at all, if I had not discovered, as I think, in various respectable quarters in this house, either a total forgetfulness of settled principles, or a disposition to scout and discard them.

Keeping in mind then the great object we have in view; that we propose to promote the common prosperity, by affording further facilities for necessary supplies through the medium of banks; let us inquire how we must proceed, according to known laws, to effect our purpose. When we understand clearly what capital is, what credit is, and in what manner profits and wealth are produced, we shall then be prepared to understand how it is that banks are of such eminent utility, and on what terms they ought to be established and encouraged. We shall then see, too, whether our present proceeding is altogether on the right foundation, and calculated to afford the best advantages to the community.

We hear so much of banking capital, and the necessity of increasing it, that it is worth while to inquire what capital is, in order that we may understand, amongst other things, whether there is really any thing uncom-

mon or magical about banking capital to distinguish it from all other capital, as many seem to suppose. Capital, as considered in connexion with industry, has been found to consist, 1st, of the materials on which labor or skill has conferred, or is about to confer, additional value: 2d, of the instruments and tools employed and used in the application of labor and skill to materials; and 3d, of the means of subsistence to the beings employed in performing and conducting the operations of labor. It is supposed that in that enumeration is comprised every thing which can properly bear the name of capital—every thing which goes to make up individual property, or national wealth.

Take a familiar example by way of illustration: The manufacturer has for his materials, his cotton, his wool, his wood, or his iron, as the case may be; for instruments, he has his factory or workshop and machinery; and for subsistence he has his food, clothing and shelter for himself and his workmen. In the same way, the capital employed by the mechanic, the merchant, the farmer, the professional man, may be easily ascertained.

Money in actual use as such, that is, in making exchanges of values, is capital, and falls within the class of instruments employed in facilitating the productive operations of industry upon materials; and thus used, it is, like other instruments and tools, indispensable, but at the same time in itself utterly unproductive. But I shall have more to say of money by and by.

In connection with this view of capital, it will be convenient to understand also what credit is—what the credit system is, of which so much is now-a-days written

and spoken, said and sung. Credit is the trust, or confidence, which one individual reposes in another, upon the transfer or assignment from the one to the other of money or other property by way of loan. The lender gives the credit: the borrower obtains it.

The manufacturer of cotton cloths, for example, may have skill and industry for this particular calling, and he may have some capital, yet not as much as he could profitably employ. In the way of materials, he may require more cotton; or in the way of instruments he may have occasion for more machinery; or in the way of subsistence, he may want food and clothing for more laborers. Not owning these things, and not having the means of purchasing, he must borrow, he must obtain *credit*, and be *trusted* for a return, until he can realize the fruits of his operations. So the agriculturist, having his land, and skill to work it, may have no seed corn; or having this, he may want the necessary utensils and animals; or possessing every other requisite, he may lack the means of living, in the mean time, while he is tilling the soil and waiting for his crop; and in either event, if he has not the means of buying, he must resort to his credit and obtain whatever he wants upon that. In the same way, the merchant and the mechanic become borrowers of capital, on which, or with which, they employ their skill and their industry in the production of profits.

An apt illustration of the advantages of borrowing may be found in our state works of internal improvement—a case, by the way, which illustrates also, most forcibly, the difference between us and other nations in the use which is ordinarily made by the governments of



borrowed capital, as well as in the application which individual capitalists in these respective countries usually make of their surplus means. It will be sufficient to instance the public canals of this state to shew the profitable employment of our public credit: works in which many millions of borrowed capital have been consumed, and which, in so brief a time, have yielded profits not only to pay the interest of the debt, but enough to cancel also the debt itself, and leave to the state a clear and unincumbered property of almost inestimable value. By borrowing abroad, the capital here, in individual hands, was left for employment in personal business and individual enterprise; and by borrowing to expend in the construction of public works of great utility and profit, instead of borrowing, as other governments have done and still do, to consume in wasteful extravagance, in the support of armies, and in the conduct of war, the advantage and gain to the country have been incalculable.

And this leads me to speak of the production of wealth, which is only the aggregate of profits resulting from the application of labor and skill to capital. The great use of capital, in an economical point of view, is to supply industry and skill with the means of profitable occupation; and this is the great use of credit and the credit system. Labor can afford to borrow capital and pay for the use of it, because when the result is realized, the capital borrowed may be returned to the lender with interest on it, and the borrower still retain a valuable compensation for his labor. In this country, we abound in industry, skill and enterprise; but these can accomplish little without materials; without instruments, without

subsistence—in short, without capital. Capital is what we want, and it is what is not to be found in any abundance among ourselves. Nobody has capital to lend unless he have a surplus—capital, already prepared for productive employment, which the owner cannot use, or consume, at least with advantage or economy. Some surplus capital undoubtedly we have at home—indeed we have much considering the age of the country—but we have not enough; and hence, as a people, we are largely borrowers from other and older countries, and if we are wise we shall long continue to be borrowers from countries where surplus capital abounds, where it is seeking investment, and where of course the rate of interest is low.

Probably not another country that the sun shines upon, ever made so rapid an advance in wealth as this has. And it is not difficult to account for it. We have taken possession of a new country, where the elements of wealth existed in unexampled profusion: we had only to seize them, to take possession of them at little or no cost, and realize the largest returns from the smallest possible outlay of labor and capital. To allude only to our interminable forests, our virgin soils, our swarming fisheries, our noble water courses and our water power—these alone, placed almost without expense in the hands of a people who, by education and habit, make a pastime and pleasure of diligence and toil, are enough to account for much of what seems really wonderful in the rapid advance we have made. An important item in the amount is no doubt, to be found in the astonishing enhancement of value, often of several hundred per cent. in a few short years or months, in the native,

and as yet perhaps unemployed capital of the country. Such has been the case with our lands, cultivated and uncultivated : with the sites of business or habitation in our cities and villages, often springing up suddenly in the very midst of the wilderness : and with innumerable localities on our streams and rivers, coming into demand for mechanical and manufacturing purposes. But, after all, much, very much of our present prosperous condition is to be traced directly and distinctly to the effect of *the credit system*—used, undoubtedly, with more liberality, and more extensively, among us than among any other people that ever existed. I have not a particle of doubt that, considering the limited amount of surplus capital amongst us, less of it has been wasted, less hoarded, and more loaned and productively employed, than anywhere else on earth : and, moreover, what is much to the purpose, and creditable alike to individual character and the character of the country, a vast proportion of this business of lending has been done on the faith and confidence alone of the skill, the industry, the integrity and the intelligence of the borrowers.

The business of borrowing, moreover, is done at unusual profit with us, because of the extraordinary ingenuity and invention displayed by our people in the discovery of new elements and new combinations of power in nature, and the art and energy exhibited by them in putting all these into active requisition in the performance of physical labor—increasing and multiplying motion and force every where, and in all kinds of business, to an incalculable degree, and yet at very small cost.

In these peculiarities of our condition, and in the free use of the credit system, lies in truth the secret of our

general prosperity—the secret of those almost magic changes which this country has undergone and is undergoing. These causes well considered, we need not wonder at the unexampled increase of private fortunes and of national wealth among us; at the extent to which our waste lands have been cultivated; the number of our roads and bridges, our canals and railways; the crowded and profitable occupation of all our rivers; our comfortable dwellings; our flocks and herds; the facility and rapidity with which our mighty forests have receded before the march of improvement and cultivation from the Atlantic border to the almost limitless West, and a vast country, but just now savage and wild, reclaimed to the dominion of civilized man and converted into beautiful fields and blooming gardens, dotted with manufactories, where the elements, and agencies the most powerful and sublime, are working with man and for man, and studded with smiling villages and busy cities, the peaceful yet thronged and wealthy marts of trade and commerce.

But though much has been done, much remains to be done. We must still be borrowers. Other rail-roads and other canals must be made. We have a widely extended territory over which transportation is to be conducted. The amount of property to be exchanged is accumulating every day. We must increase the number of our manufactories and mechanical employments. There is yet a vast amount of capital now idle, which is only waiting for the hand of labor to make it productive and profitable; we have fertile lands waiting to be cultivated; water power waiting to be employed; and mines of lead, iron, copper and zinc, waiting to be opened and wrought.

We must put new labor, new hands, new engines and machinery into operation; we want them at work on the water and on the land, and in the bowels of the earth; and for this purpose more capital must be employed; we must go on with our system of borrowing, and a more extended use of credit.

And now, Mr. Chairman, we may be prepared to turn our thoughts to banks, to see what banks are and how they operate, when they operate well, to supply industry with capital and to give extension to the credit system. And here I beg leave to remark, that it is now about sixty years since the secrets of banking were penetrated, and whatever there was of mystery about it completely exposed; and nothing can be more silly, at this time of day, than for persons to look wise and set up pretensions in this matter, as if they had made discoveries and were possessed of knowledge concerning the business of banking of which the world has hitherto been quite ignorant. There are those connected with banks, who sometimes exhibit a great deal of small wisdom on the subject; and verily believe that their skill in the mechanical working of a bank, and their acquaintance with its details, are enough to make oracles of them, even when the question is one which concerns the state, and the whole body politic, relating to currency and finance, and the public prosperity as connected with them; and the wisdom of such persons is not the less profound, in their own estimation, though they have never given themselves the trouble to understand the commonest principles belonging to the subject. There are others who, from some restless desire to be foremost in all good works, or else from a love of speculation, or

from some other equally worthy impulse, turn reformers, and offer us various ingenious devices for improving the currency. Sir, for one, I have no faith in experiments on the currency, and no attempts in this way, of a recent date, have given me any new confidence in them. Nor, on the other hand, have the signal failures which have attended all such attempts, nor the distresses into which the country has been thrown in consequence of them, weakened at all my trust in banking as an indispensable agent of prosperity in all mercantile and business communities, and in the superiority of a bank-note circulation over any other that ever has been, or can be, devised. But then, I think, of course, that banking should be conducted on plain, simple, and well-understood principles; that thus conducted it is entirely safe, and otherwise it is entirely unsafe, and generally to the last degree mischievous.

The business of banking, at this day, is usually conducted in two principal branches—loaning capital, and issuing currency. Nearly all the banks in this country are both banks of loan, and banks of issue. The operation of a bank of loan is exceedingly simple. Such a bank, owned at home, of course adds nothing to the actual capital of the country. It serves simply to collect and distribute a portion of such capital, and this is a service of immense importance. The capital of the bank consists in a certain amount of surplus property belonging to the respective owners. Whatever that surplus may have been in the hands of the original proprietors—materials, instruments, or food and clothing—cotton, wool, grain, iron, leather, coal, wood, lands and buildings, implements and tools of trade, the products of the

soil, the stall and the loom—every thing, having been exchanged for cash, goes into the banks in the shape of money, as the representative of so much value of capital, and as the most convenient form for putting out on loan. In this shape it is borrowed, and immediately again exchanged, by each borrower, into such property, or capital, as is suited to his particular occupation and wants—except, perhaps, some small portion of it which may be preserved for necessary use *as money*. I speak of course of the case of loans to the business part of the community, and without reference to instances which may seem to form exceptions to the general practice. It is, then, let it be remembered, capital, according to the true meaning of the word, which is really loaned by these banks; it is not money, in any other sense, than as money is the representative of capital, and may always be readily exchanged for it. It is not money which the manufacturer or mechanic wants; it is cotton, or iron, or leather, or wool. It is not money which the merchant-miller wants; it is wheat, and he could not grind up and bolt the cash for the market with any great profit, if he were to make that experiment. Money is the convenient agent by which capital and labor are brought together—it is the priest performing the marriage ceremony, but not entitled to claim quite all the credit for the fruits of the union—which are profits and wealth.

Banks of loan do not, as I have said, when owned wholly at home, add any thing to the actual capital in the country. They *do* add, undoubtedly, to the capital *actually loaned*, because they serve to gather in for that purpose, much that would otherwise be idle, and finally wasted by being unproductively consumed. But when

the capital stock of such banks is owned abroad, there is just so much actual and loanable capital added to the amount already in the country ; and so long as the profits of labor bestowed on borrowed capital, shall exceed the rate of interest and expenses paid for it, so long will it be good policy for us thus to continue to borrow from other countries.

It is of some importance to bear in mind also, what one of the principal actors in bringing forward and sustaining this bill, and with whom I have conversed recently on the subject, seems to find it very hard to comprehend, that the amount of *money* loaned to and in use by the community, is by no means increased in equal proportion to the amount of capital collected in new banks and put out on loan. The increase of real banking capital does not necessarily increase the quantity of circulating medium actually employed, except only as the greater number of exchanges which increased activity in business requires, demands a proportionably greater amount of the common medium by which such exchanges are made. When the banks in this state, on the first of January last, had sixty millions on loan in the hands of the community, the whole amount of money in circulation, of every description, did not probably exceed fifteen millions of dollars ; and I suppose it would be quite possible to add to the loans to any desirable extent, without materially advancing the ratio of circulation.

But, Mr. Chairman, let us now see what we can make of banks of issue, and whether we fully understand their operation and effect. Banks, as they are constituted in this country, not only loan capital, but they also



create and loan currency. What then is currency, and what relation does it bear to capital? Is it true, that in order to supply borrowers with capital, nothing more is necessary than to set to work to create and put out currency? If so, then it is indeed shameful that any country should ever feel the want of capital; if so, then I grant that this bill has been conceived in exactly the right spirit, and proceeds on the right hypothesis. Bank-notes being money, and money being capital, increase bank-notes and you increase capital. This is short reasoning, and I have no doubt to many quite conclusive.

According to my simple apprehension, a bank-note currency, when issued, is used, in the place of an equal amount of coin, as money, and so long as it remains in circulation is *only money and that continually*. As the representative of coin, it performs the office of coin, both as a measure of values, and as a medium or instrument for the exchange of values. As an instrument of exchange, it is like all other instruments—its importance and utility are wholly relative—and whether you want more or less of it will depend on the amount of work you may have to be performed by its means. The smith does not want two forges to work up a given quantity of iron which can as well be done in one. If the weaver have a given quantity of woollen yarn to be woven, and one loom will do it in a given time, he will not set two looms in operation to do the same work, in the same time. If one yard stick will measure one hundred yards of cloth in ten minutes, it would be quite useless to employ ten yard sticks in ten different hands, to occupy the same time, in performing the same work. And so with exchanges of values by means of money. With

a given sum, a certain number of exchanges may be made; and hence it is found that the sum of all the exchanges in a business community, according to the amount and activity of its business, requires for that purpose a certain amount of money. The ratio has been differently computed; but unquestionably there is a point beyond which the community cannot go in the use of money in business, either with economy or with safety. Circulation has been estimated, by reference to the whole amount of capital in a country, and also by reference to the amount of annual income. In Great Britain the proportion of circulation to capital has been computed by some as one to fifty, and by others as one to one hundred and twenty-seven. The proportion to annual income has been supposed to range from one to ten, to one to twenty. But it is not so important to find the true ratio in either case, if that were possible, as it is to be made sure of the fact that an amount of money, comparatively small when considered in relation to capital or income, not only suffices for the uses of business; but is really all that can be employed.

When the currency is full, that is to say, when there is enough of this medium or instrument abroad, if kept active, to perform all the exchanges required to be performed in the prosecution of the business of an industrious, skilful and enterprising population, then both economy and safety require that no more should be added. After that, every addition, if it benefits individuals, does so at the public cost, and can only be productive of general mischief. If the currency in any community is full with twenty millions in circulation, the addition of ten millions can only have the general

effect to knock down the price of the whole currency, as compared with other things, until the thirty millions shall be worth no more than the twenty. It is a good enough operation for lenders, for the time being, but positively ruinous in the end to borrowers.

It is true, that the currency of a commercial country, keeping up an active commercial intercourse with other countries, cannot long continue in an inflated condition, if such currency be either specie, or bills convertible into specie. A foreign demand for specie will be created, which will begin to flow off to places where it bears better prices than at home; the currency will begin to be contracted, and through ruinous fluctuations in property and universal distress—perhaps through suspension of specie payments—the evil will at length be cured, and the country return to sound and healthy habits.

We may now see Mr. Chairman, exactly the use of Banks of issue, and just what they are worth. They are valuable institutions, and no commercial community can get on without some contrivance of the sort; but care must be taken that they do not attempt to take the place and perform the functions, by way of substitute, of banks having capital to loan, and loaning capital accordingly. They are useful and indeed indispensable, so long as they confine their operations to the issuing of currency, to the extent only to which money, or circulation, is really required; the instant they pass beyond this line, they do nothing but inflict on the community positive injury.

The use of bank-note money is to represent and take the place of the precious metals in circulation, and it is, beyond all question, the cheapest, the most convenient,

and the best money which a commercial country can use. The principal pecuniary advantage of paper, however, is easily calculated. Money, when in use *as such*, is in itself utterly unproductive. If materials of value be used like the precious metals, then it is so much dead capital, necessary indeed; if a cheaper substitute cannot be found, but still used at a dead loss—precisely as if all our dry-goods dealers were to take a fancy to use only gold and silver yard-sticks, instead of wooden ones costing little or nothing. The substitution of paper for metal as money, simply has the effect to release from an employment in which they earn nothing, and, at the same time, are rapidly losing value from wear, articles of great intrinsic value, which may now be made productive in the same manner as any other capital.

To illustrate this position, let us suppose the case of a silver-smith employing a certain amount of that metal in the profitable business of manufacturing silver ware. In the absence of paper, suppose he finds it necessary to employ also, in his business, ten thousand dollars of silver as cash, or money. Give him now the chance of borrowing ten thousand dollars of paper, which will answer his purpose as money equally well, and let him apply his silver dollars to increase his stock of ware for market. It is clear that his personal advantage will be equal to the difference between his profits on his work, and the interest he may pay for his money; while the advantage to the community will be equal to the clear profits, provided only that the bank, receiving the interest on the paper, is owned at home and not abroad. Here then is a direct pecuniary benefit to be derived

from banks of issue. If owned by our own citizens, so that the interest is saved to the community, the benefit is equal to the profits which the community may make on so much productive capital as is represented by the paper in circulation. If the currency in this state, in ordinary times, is twenty millions, and fifteen millions of that amount is paper, and the annual profits of capital productively used are ten per cent, then are the people of this state made richer every year, in this way alone, by the sum of a million and a half, by the use of so much paper. So much for this direct saving by the use of a paper currency, and for the proper functions of banks of issue; and if the view here presented could always be kept in mind, by those who deal authoritatively on the subject, the system might always be a safe and profitable one. The danger arises from the temptation to push the system beyond its sphere. Man will not remember the true uses of money; that from its very nature, its constitution and office, it requires to be limited in quantity; that it can never be judiciously or profitably increased beyond the natural demand for the legitimate purpose to which alone it can be applied; and that in every respect the law of money is the same, whether it exist in the shape of metal or in the shape of paper.

And now, Mr. Chairman, after having been so long engaged, I hope not wholly without profit, in looking into general principles, we are prepared perhaps, to see what we want, in the way of banks, and also what we do not want.

We have undoubtedly in this state at the present time a contracted currency. But if present relief from

the immediate pressure under which the country is laboring, be any part of our object, we shall not gain that object, in my opinion, merely by providing new sources for the issue of paper. The present banks can issue paper as well certainly as any new banks that may be formed; but the present banks are steadily preparing for resumption, and nobody, I believe, proposes that our new banks shall begin with issues not purporting to be redeemable in specie on demand. Looking to the period of resuming, we may expect that for some time at least, the circulation will continue to be contracted. The banks will not put out bills in profusion in the face of apprehended demands for specie. They will feel their way gradually, and come up to their wonted limits only after they shall find the accustomed confidence of the community fully restored. No banks, however framed, could do more than this. It is not in times of distrust and general suspension that banks, however plausibly contrived to secure bill-holders and win public confidence, can safely venture to cast abroad a full supply of bank paper, unless indeed the intention be themselves to fall back on suspension with the earliest opportunity. I conclude that the banks contemplated by this law, will no more be able to furnish a fresh supply of currency, in the present emergency, than the old banks are, or will be, without them.

But in offering to the state a general banking law, our purpose is to offer a system which will work beneficially, not at one time merely, but at all times. And considering the present scheme in this point of view, it seems to me that quite too much effort is expended, in preparing the way for new issues of paper. Indeed,

to my mind it is quite apparent, not only from the general frame of this bill, but from the manner in which it has more than once been stated on this floor that its supposed benefits were expected to accrue; that the leading and governing impression of its friends is, that what the country mainly wants, to promote its steady growth and prosperity, is a permanent increase of currency. We want, say they, more banking capital, and this want they suppose will be abundantly supplied, by authorizing banks to issue currency at will, without having one dollar of actual capital to loan to the community! In no part of it does this bill require, or even contemplate, that the banks, created under it, shall possess a shilling of loanable capital. On the contrary, the plan is, and every thing is contrived with reference to it, that whatever capital a bank shall possess, instead of being loaned to anybody, shall be locked up in pledge with the comptroller, as the condition of its right to issue currency. The notion entertained evidently is that currency is banking capital, and that when you have provided for an indefinite supply of currency, the want of capital can no longer be felt. I hope, before we have all done with this subject, that gentlemen will consent to come back to juster and safer sentiments than these.

In all my remarks on this subject, I trust I shall not be so far misunderstood as to be thought, in any manner, opposed to a general banking law, or to giving to all persons the same authority, under proper regulations, to issue paper. I am decidedly in favor of such a law, and I see no difficulty, and no danger, in such a course. But then I do not think that currency is all we want,

or that it is our chief want ; nor can I fall deeply in love with any law framed on such a supposition.

On the supposition that our new banks are to be merely banks of issue, it is easy enough to compute, very exactly, how much the community, for I do not regard the benefits to the bankers as the principal thing, is to be benefitted by them. The banks now existing in this state have authority, even under the restriction of the suspension law of last May, to issue something more than twenty-nine millions of dollars. How much currency the people of this state can use, in the most active and busy times, I shall not undertake to say ; but we know about how much they have used, when they had probably quite as much as their business would bear, and as much as the banks dared to, or could put out. The highest point to which their issues have ever attained was some short time before the suspension last spring, when they amounted to about twenty-four millions. The bank commissioners tell us, that, with the present amount of capital, their issues, in ordinary times, will probably be less than twenty millions. A calculation founded on the estimated ratio of circulation to capital, or to income, would give a result considerably below this sum. Ten dollars of money in use to each person, including women and children, has been thought by many to be a large estimate, and this would make twelve millions or a little more, a full currency for the people of this state. Double the sum, and it would not equal the present capacity of the banks to furnish the full supply.

If then we cannot use as money, in this state by any possibility, a currency of twenty-nine millions, without



having a dangerous expansion, and a bubble, will anybody tell me how we are to be benefitted as a people, merely by establishing new banks of issue, without any increase whatever of loanable capital? Either the new banks will supplant the old in this business, and furnish all the currency, or they will come in for a share of the public confidence and custom. In either event, what does the community gain? And what becomes of all those splendid visions, in which gentlemen have indulged, of new impulse, new prosperity, and unwonted glory to the state, from this new creation of banks, which, after all, are expected to do nothing but issue new currency? I repeat again, that I am in favor of throwing open this business of issuing currency, and the reasons for it are strong and obvious enough; but I am unwilling to see anybody here cheat themselves, or others, into rhapsodies about the advantages of accumulated issues of paper. A grosser delusion never took possession of any man's mind, and it shall be my labor to dissipate it if I can. At least I will endeavor, as far as in me lies, to prevent the mischief which might follow, if such error were indulged without gainsaying or exposure.

I suppose that what this state really wants is *an increase of loanable capital, and an extension of the credit system*. And my difficulty is, that while I see in this bill a provision—that which authorizes associations for banking—of which advantage *may* be taken for forming associations with loanable capital, and which probably will be thus used in the city of New-York, if nowhere else—a result which nobody can desire more strongly than myself—yet I also see in this bill, as it

seems to me, a strong and ingenious effort made, to set up generally throughout this state a system of paper issues as a substitute for capital, and thus, if the scheme should be successful, as it would be full likely to be, to commit an alarming practical error, from the consequences of which it might take us long years to recover. By a brief analysis of that part of the bill which provides for issues on a pledge or mortgage of property, we shall easily discover what must be the practical working of the plan, and whether we are, or are not to be supplied, under it, with additional capital, and favored with new facilities for the use of credit.

In regard to *stock banks*, several cases may be supposed, and I will content myself with simply and plainly stating the result in each.

Suppose existing state stocks, now owned by capitalists at home, be pledged for issues: state stocks in the hands of individuals are not only a marketable property, but they will readily command foreign capital; and if sold abroad instead of being pledged at home, actual capital would be brought into the country, and used, or put out on loan, instead of the currency which is proposed to be issued upon it as a basis; while, if more currency be needed either generally, or in particular places, it is easy to provide for it, with perfect safety, without locking up capital.

But suppose existing state stocks, now owned abroad, be brought in, and being still owned abroad, are pledged for issues; nothing of course would thus be gained in the way of loanable capital, and to the extent of the issues, the interest would be paid abroad instead of at home.

Again ; suppose such stocks, now owned abroad, be purchased by our own capitalists, and brought in to be pledged by them for issues ; the whole capital thus paid for stocks, held by foreigners, would be so much withdrawn from the country, and from the industry of the country, and we should thus provide for a new issue of currency at the expense of an equal amount of capital.

But we will now take the case of a new creation of state stocks, and suppose them to be purchased abroad with foreign capital, and then pledged here, by their owners, for issues of paper ; in this case, the state, creating the stock, adds to its borrowed capital, which it may consume in a productive and profitable manner, as in the construction of canals and rail-roads, advancing thus the common prosperity ; but individual industry, or business, would not in that way acquire any additional capital—it would acquire nothing but currency, which it already has, or always may have, on terms equally safe, and vastly more economical.

Or suppose, finally, that this new creation of state stocks is purchased at home, and so pledged for issues ; it is plain, that so much domestic capital which might have been loaned to individuals, and thus have gone to stimulate and sustain individual enterprise and labor, is now loaned to the state, or states, creating the stock—it may be our own state, and is quite as like to be some other ; and if loaned to other states, then we are wise enough to dig their canals and build their rail-roads with our capital, and imagine that currency will answer our own purpose equally well !

The case here put seems to have been the one which the honorable chairman of the committee on banks com-

templated, when his imagination, a few days ago, was so strongly fired with the glories of this new discovery in banking. He saw in this scheme, an immense saving to the whole country, as well as I could understand him, in the item of interest. He spoke of a hundred millions of state stock, all being owned at home instead of abroad, and a consequent saving of five millions a year to the country, which must otherwise be sent away in the shape of interest. This saving is, of course, to be made in only one way; if the commercial and business community, instead of being borrowers, are ready to become lenders; if they can and will supply the governments with all the capital which they would borrow; and then, if they can contrive to add to a full currency, millions upon millions of more currency still, and make that currency supply to them the place and the uses of capital—why the whole thing is done; a community of needy borrowers may at once become a community of rich lenders, though without one dollar of property, surplus or otherwise, more than they had before—interest will of course be saved, and capitalists may go hang!

In regard to the *mortgage feature* in this bill: the effect of pledging lands for issues may be seen at a glance. If we could suppose that associations would be formed with a cash capital to begin with, which would be loaned out on mortgage securities, we might expect to realize some substantial advantage from the operations of such banks. Though even in such a case, we should not have banks making loans on commercial principles, but putting out their capital on time, and upon those very securities that have heretofore been used most advantageously as pledges for private loans.

But I apprehend our *land banks* will not be got up in any such way, nor is any such thing intended. The share-holders of these banks, so far as land or mortgages are used, will be the owners, at least they will be the holders, either of existing mortgages on lands, or of the lands themselves, which are proposed to be pledged for issues. In other words, and very plainly, it is not proposed or expected, that such banks are to possess any loanable capital whatever, or to put out any capital on loan, but if banks at all, they are to be banks of issue only, loaning currency, and nothing but currency.

Sir, this is not the first time, by any means, that it has entered into the imagination of men, that since paper has become money, it is quite right that every body should be allowed to make their own money, only taking care that security be given for its ultimate redemption. This is the leading idea in this bill. And under it, unquestionably any person of substance, or without substance, if he have credit enough to command a temporary loan, may, at any time, supply his own necessities for ready money, simply by the dash of his own pen. To many persons, even of substance, when pressed by an urgent call, when a lucky hit might be made, or a valuable property saved by it, the temptation to resort to the plain suggestions of this bill for supplies, would be too strong to be resisted. A man with a little scrip lying by him, and some real estate unavailable in any other way for raising money, would not be likely to see himself ruined, in a time of pressure or panic, for want of a few thousands, when by turning this property over to the comptroller, he could at once lend himself whatever he needed. He might have no intention to turn banker;

that might be the farthest thing from his thoughts ; but he would meet a present exigency ; he would throw out his bank notes as cash ; he would effect a ready sale of his stock without sacrifice ; and for his land, he would gain time to redeem his mortgage on that, and in the mean while make up abundantly any little losses in the operation, by buying up his own issues at a discount. That such would be the common order of proceeding under this bill, I do not pretend to say ; but that undue and improper advantages would be taken of its provisions, and that to an extent injurious to the best interests of the country, I have no doubt, provided the bill should be suffered to pass in its present shape.

But, Mr. Chairman, I come now to consider this bill in a different point of view. Besides that the bill, so far from requiring, does not even contemplate, that the banks, generally established under it, shall possess or offer to the community any loanable capital whatever ; besides that it professedly regards the great want of the community to be paper and only paper ; it provides for a system in respect to issues, in some important particulars, entirely new. We are now to leave old landmarks, and venture forward where we, at least, have never ventured before. And it is not that we are about to throw open the business of banking. That has been done by former legislation, except in regard to issues only ; and we may make this latter branch of the business free also, with perfect safety, in my judgment, and without resorting to any new and hazardous experiments. It is this feature of the present bill, the attempt to put issues on a new basis, a basis of property instead of specie, which more than anything else makes it objectionable

to my mind, and which, unless I can persuade the house to admit my amendment, must determine my vote, much as I shall regret it, against the final passage of the bill.

When I look at the whole frame of this act, and when especially, I consider it in connexion with the ominous remarks which have, from time to time, fallen from its friends and those who have it mainly in charge, I cannot doubt, that it is expected that, in its practical working and result, the country is now to be supplied with what is called money, to the full extent to which the demand for it is at all times known to exist. This money is of course to be paper, and to be dealt out to borrowers without measure or stint, and regardless of all the fatal mischiefs which always follow from an overcharged currency, of whatever description it may be. I say, sir, that it is expected that bank money shall now be created in full profusion. This is precisely the promise which gentlemen make to themselves, in proposing and sustaining this bill in its present form, and it is precisely the result to which they look with equal confidence and pleasure. Now, sir, I agree with gentlemen, in believing firmly that the plan of the bill is admirably fitted to bring about the result to which they so eagerly look, though I have by no means any sympathy with the feelings of hope and pleasure with which they contemplate the prospect.

Mr. Chairman, it is my opinion, that this bill contemplates and proposes the establishment of banks of issue, which will not be very far from being what are well understood by the term, *property banks*; and that their issues will not in the end, vary in character, very mate-

rially, from what are known as *bills of credit*. I think there is an effort here, quite likely to be successful, at least for a time, to win the public confidence to these issues, without regard to convertibility; to induce the community to look upon them, and that with satisfaction and favor, as representing property and not coin, and thus to give them a character and a currency tending to all the evils of undue expansion belonging to mere paper-money.

These issues are to bear, on the very face of the bills, two principal features, admirably calculated to gain for them favor and confidence, wherever they may go. In the first place, they will shew an established connexion with the government, which, though in reality only apparent, will seem to be very important. They are all to bear the signature of a government officer, and to be known as issuing directly from the authority of the head of the financial department of the government. And in the next place, they are to have, either in whole or in part, the actual guaranty of a state government, for their redemption. Where this guaranty does not go to the full value, the remainder is secured by a mortgage on real estate of double the value for which it is pledged, perfected under the direction of the same financial officer of the government, and for whose faithfulness and capacity the state is responsible.

Now that such paper is to circulate merely on the credit of the issuers, and simply as the representative of coin, is more than I expect or believe. Nobody, scarcely, in a commercial community, wants specie, when paper can be had in which all, for the time being, have confidence. A very brief experiment will be enough to satisfy



every bold operator in banking, that little or no specie need be kept idle in vault. The demand will be for the bills, and not for metal; and this is an appetite that grows by what it feeds on. An expansion once begun, is sure to go on. The mighty bubble, the great balloon made of silk-paper, is constantly swelled out, more and more, increasing in volume and losing substance in proportion, until it is distended to bursting. I would I could be satisfied that my apprehensions on this point are unreasonable and unfounded.

Until now we have had a legal limit to issues. At the present moment, if every other restraint was removed, bank paper could not be issued quite up to thirty millions. It is now proposed to allow issues without limit; at least without any other limit than such as always belongs to property banks, that is, the amount of property which can be commanded, to place in pledge for eventual redemptions. The ordinary guards thrown around banking, even where there is a legal limit to issues, are now wholly omitted, when the legal limit is removed. I cannot think that this is proceeding wisely or safely. There seems to me to be in this plan every possible facility for putting out and keeping out paper, every possible inducement to do so, and a careful abstaining from whatever might operate as a check to issues. Let us see if this be not so.

We have already seen what provision is made for inspiring an unusual confidence in the paper. I think it is also plain, that the bill holds out the inducement of large profits to those who may engage in the business. Persons owning state stock, and receiving upon it an interest of five per cent, can have no possible objection

to place it in a condition in which, with the aid of paper issues, it shall produce them ten per cent, clear of all expenses, and without trouble or risk. And the owners of mortgages, and of farming and other productive lands, will not think it a hardship to receive an income, from these sources, of twelve per cent instead of seven. From every calculation which I have been able to make, I do not see why the ordinary profits of banking, under this bill, may not be as great as I have indicated. In any event, whatever the respective holders of property shall be able to realize, above the ordinary rate of interest or return upon such property, be it ten per cent or only two, is so much nett gain, and to that extent a strong inducement to undertake the business. An interest is obtained above the legal rate, without any of the hazards or imputations of usury.

In my study of this scheme of banking I have considered carefully the point, what there was, and whether there was anything in it, or connected with it, which would operate as a check upon issues. If there be anything, I have not been fortunate enough to discover it. Amongst other things, I have tried to satisfy myself that there might be something in the character of our people, which of itself might be enough to prevent the bankers on the one hand, and the borrowing community on the other, from running into any excesses in the use of paper money. All wise men know that the end of excess in this matter, is distress and ruin; but then every man is apt to think that, in the general wreck, he will escape. I have adverted in my mind to the parallel often drawn between the Scotch and Yankee character, in regard to habitual caution and discretion; but I do not find the

parallel complete. As imputed to the Scotch, whether true or false, Yankees may indulge some habitual distrust of each other; but the Yankees have no distrust of themselves. In themselves they have the most entire confidence. They will take bond of all around them, if they can; but if no security can be had, it is no matter, and each for himself, will play at any game of chance or hazard, old or new, small or great, in which others are willing to engage. To win or to lose, he will take his chance in any attempt in which he can find anybody bold enough to dare him on. Never was there a people more enterprising or more daring. Tell me what island there is, to which adventurous navigation has ever penetrated in search of gain, which has not been trodden by the foot of some son of New-England? What ocean, which has not been whitened with his sail? Who travels faster, or travels farther than he? Who sails faster, or farther? Who encounters labor, exposure, fasting, peril, death, with such deliberation and coolness as he does, whether led by the spirit of discovery, or the spirit of benevolence, or the spirit of adventure and gain? But it is better to let Burke describe him.

"Look," says he, "at the manner in which the people of New-England have of late carried on the whale fishery. Whilst we follow them among the tumbling mountains of ice, and behold them penetrating into the deepest frozen recesses of Hudson's bay and Davis's straits, whilst we are looking for them beneath the arctic circle, we hear that they have pierced into the opposite region of polar cold, that they are at the antipodes, and engaged under the frozen serpent of the south.

Falkland island, which seemed too remote and romantic an object for the grasp of national ambition, is but a stage and resting place in the progress of their victorious industry. Nor is the equinoctial heat more discouraging to them than the accumulated winter of both the poles. We know that while some of them draw the line and strike the harpoon on the coast of Africa, others run the longitude, and pursue their gigantic game along the coast of Brazil. No sea but what is vexed by their fisheries. No climate that is not witness to their toils. Neither the perseverance of Holland, nor the activity of France, nor the dexterous and firm sagacity of English enterprise, ever carried this most perilous mode of hard industry to the extent to which it has been pushed by this recent people; a people who are still as it were but in the gristle, and not yet hardened into the bone of manhood."

For my part, sir, I can find nothing in the character of our people, (for we are of the blood of the race just now described,) calculated to give me any confidence whatever that the provisions of this bill, with all the temptations and invitations to abuse, contained in it, are likely to be always prudently and safely used.

But, Mr. Chairman, I have not forgotten that all bankers under this bill will be held to pay specie for their notes, on demand, under penalty of being proceeded against as bankrupts after ten days from refusal. Yet as a check upon issues, I regard this provision as being likely to prove delusive, and nearly useless. And I think I cannot be mistaken in supposing that this opinion of mine is not at variance with the opinions of the friends of the bill. I put it to gentlemen plainly to say, whe-

ther it be not one principal object on their part, to make such a show of property security to the bill-holder as will have the effect to take away from him all disposition ever to test the question of convertibility by demanding the specie? Is it not a part of the design, that banks thus constituted will be able to maintain a circulation which no other banks could? But whether there be any such intention or not, I cannot doubt that such would be the effect. The issues would not be regarded in any respect as representing coin, but as representing property—property pledged for their redemption—property of such a character that it may be thrown into market, and the value realized, with little sacrifice and small delay.

Mr. Chairman, I should be glad to know if I am really so much in error, in regarding the proposed banks rather in the light of property banks than of ordinary commercial banks, and in believing that their issues will have more the character of bills of credit than of convertible bank paper? I pray the committee to indulge me in a little further examination of this matter.

What is it which constitutes the characteristic difference between bills of credit—mere paper money—and convertible bank-notes? Nobody doubts that there is a difference—in what does it consist? A convertible note must, of course, be payable on demand, and in coin; but are all notes, thus purporting to be payable, convertible notes? I think not, and there are many instances to prove they are not. Convertible notes are really and truly the representatives of coin; and if they are not, they are not fit to be called money. If they represent

credit, or property ; if they circulate *merely* on the faith of the ability of the issuers *ultimately to redeem in value*, then they are not strictly convertible paper, but are properly bills of credit. Such was the old continental money, payable on the face of it in specie on demand, but circulating really on the credit of the country : and, to give a fresher instance, such has been, and is, all our bank money since the suspension of specie payments.

The theory in regard to bank paper is, that the coin is supposed to be all in vault, and the bills are only tickets, certifying that the holder has so much coin in deposit, to be had of course for the asking. Every body, indeed, who takes the trouble to think about it, knows that the fact is not so, and yet, in every sound bank, the principle is faithfully preserved. If ten depositors put in bank each a thousand dollars in coin, taking back paper for it, and of course with the right to draw upon the specie fund from time to time, in the course of business, it may very likely be found, after a little experience, that the average monthly demand for specie from the whole number, will not exceed a tenth part of the whole sum deposited ; and hence the bank will be safe in loaning out the nine thousand of specie, only taking care that it be so managed as to keep the remaining thousand all the while good. Very much the same course is followed, in all issues of paper by specie paying banks ; and so long as the reserve of specie is at all times abundant to meet the current demand—the issues, at the same time, being limited by some safe proportion to the specie in hand, so as not to become inflated and depreciated—the paper may still truly be said to preserve its characteristic of being the representative of coin in

deposit, and every holder has his specie whenever he pleases to receive it.

But the case is different when notes are put out to circulate on the basis of property—on the supposed or ascertained ability of the issuers to respond *in value merely*. Such issues have precisely the character of common promissory notes, made by responsible individuals. Whether payable on demand, or at a day certain, they are payable in legal money—in gold and silver if demanded; and such promissory notes may pass from hand to hand, and form a convenient medium of payment between persons having confidence in the makers; but they are in no sense the mere representatives of coin, and are, therefore, wholly unfit to go into general circulation, as money, and would be exceedingly dangerous if they did. Suppose the case of an individual, and such an one might be named, in whose promissory notes payable on demand, even to the amount of many millions, the whole public would have the most entire confidence from his known wealth; suppose in the absence of any restraining law, he should issue his notes, in the form of bank bills, making it known to the public at the same time, that while of course he could not escape the common legal obligation to pay in coin if demanded, yet his purpose was, in the ordinary course of business, to redeem only by drafts on specie paying banks, or by the bills of such banks, because he would not have the trouble and the loss of keeping specie on hand at his own office of business; can there be any doubt that his notes would find ready borrowers, that they would circulate, and, so long as his affairs were known to be prudently managed, that they would remain in good credit?

And yet would any body, in the least acquainted with the subject, pretend that such notes were entitled to be deemed convertible paper, and proper to fill the charnels of currency as the representatives of coin? And if not, why not? Can there be any other reason, than because these notes would be strictly bills of *credit*—having a known basis of property and representing property, and circulating solely on the confidence of the community in the ability of the maker to answer for his promises in *value*, and not at all on the idea that they were *evidences of title to so much coin on deposit, for the holder, with the issuer?*

And here the question may well be asked—if the difference between mere promissory notes or bills of credit, and convertible bank paper, be so little—if, in the one case, the coin itself is at once forthcoming on demand from the vaults of the issuer, and, in the other, cash property is forthcoming on which the coin, if desired, may be readily realized, such as cash drafts, bills of specie-paying banks, state stocks in good credit, and the like—why then may not bills of credit be as well and as safely used for money, as any other kind of paper? Why is it, that mere paper money is so much decried and abused, and why was even the use of it by the states expressly prohibited by the Federal Constitution? I suppose the reason to be plain and obvious. The men of 1787 understood the reason well enough, for they had been taught in a school of experience. In the one case, you have, for money, a representative of coin; in the other, you attempt to set up an *independent substitute*. The substitute does very well, as long as confidence lasts, and the issues are not in excess. It was not till



the issues of continental paper exceeded nine millions, that the bills began to be depreciated ; by the time they had reached three hundred and fifty millions, they were worthless. And here is the precise evil of credit paper. Being based on property, though payable on demand, as was continental paper, the community soon understand that is to be redeemed with value, but not in coin ; it is received, and held, and circulated, with that understanding ; and, with seeming good faith, therefore, and as long as the property of the issuer holds out, the amount of issues may be increased. There is nothing to be considered in the matter, but the interest of the issuer, and the public demand ; and the effort to satisfy these leads insensibly, but inevitable, to excess. There is nothing to check issues, and there is no possible test by which it can be ascertained, that the community has as much as it can bear. The first warning is likely to be an explosion. But with paper that is strictly convertible, the case is otherwise. There is a limit to issues in the very character of the paper—in the perpetual obligation of the issuer to regard himself, as he is regarded by others, as the depository of coin for the use of the holders of his paper ; an obligation which I think should be legally enforced in the case of all banks of issue, by requiring them to keep their issues within some fixed proportion to the amount of specie on hand.

And now, Mr. Chairman, let us look once more at the banks you will give us under this bill, and see what would be the true character of their issues. The bills are to bear on their face that they are payable on demand ; they are to be paid in specie if required ; but then there is this unusual provision in regard to all these

issues, that they are to be accompanied with a pledge, or mortgage, of cash property to each holder, to the full value of the bills in hand. This is the substance and effect of the provision. If I give to an individual my promissory note, or my bond, payable in cash on demand, for a sum borrowed, and accompany it with a pledge or mortgage of personal or real property, of ample value, to secure the payment—what is the good sense and meaning of the transaction? Is it not simply, that if I do not answer his demand whenever he sees fit to make it, by paying him cash, or its equivalent, that he shall be at liberty to pay himself out of my property? And do I not mean, by the security I offer, and the facilities I give him to turn those securities into money at will, to purchase his confidence in my ability to redeem my obligation in value, and thus to *secure his forbearance*, for as long a period as possible? Would my note, or bond, be strictly convertible paper, though the cash might be realized, perhaps, at any time, in twenty-four hours after demand? And how would the issues of your banks under this bill differ, in this respect, from the note or bond, referred to? Would not the issues be made with the expectation, and in the confidence, that, at least after a little time, the community would forbear to ask for redemption in specie, and rest wholly on the security? Would not this be the natural effect, and soon come to be regarded as the right understanding of the case between the banks and the public? And when things had come to this pass, I should be glad to know what is to prevent the accumulation of this paper to any extent to which the cupidity of the issuers, and the greedy and morbid appetite of the pub-

lic might lead. What would be the actual results under this bill is not for me to say. That some valuable and safe institutions might be established under it, I have no doubt; but it is enough for me to point to the fatal mischiefs which might be practised in its name, and which would, therefore, receive the sanction of our legislation.

My great apprehension is of over issues, and expansions; and I see in the provisions of this bill a good foundation laid for such a result. It has, to my mind, too much the appearance of legalizing mere property banks—stock and land banks—which are to issue bills as long as they can furnish securities. This was precisely John Law's notion of what banks should be, when he presented his scheme to the Scottish government. He saw no reason why the paper money in circulation might not be made to equal the whole value of all the real estate in the kingdom. And yet even John Law had his notions of convertibility also. The notes of the bank of France, got up in his name, and adopted by the Regent, were payable in silver coin, at sight, and were moreover guaranteed to the holders by the pledge of the king's name, and, therefore, by a pledge of the whole property of the country. The issues became excessive, and finally of no value. The assignats of the French revolution are not an inapt example of the security and value of issues by property banks. This paper was payable at sight, and the whole confiscated property of the church was pledged by the government for its redemption. The holders might pay themselves, at any moment, in church lands. When forty thousand millions of it had been issued, it ceased to be worth any-

thing, and was never called in, or redeemed in any manner. Now I do not say that our stock and land banks will ever be allowed to run on to the same wicked and ruinous issue; but I do deem it quite too late a day in the history of banking, for any country, having any regard to reputation, to attempt to justify itself in a resort to moneyed institutions having the least semblance of property banks.

The nature of property banks consists perfectly well with the common obligation to pay specie when demanded, and with the actual payment when demanded. The advantage they have is in inspiring a credit and confidence in the public mind, which enables them to escape all demands on their vaults till a fatal mischief is done. The issues swell, and still the flood rises, and though there is depreciation, nobody believes it so long as a paper dollar exchanges for a silver one; and this it will continue to do, the currency all the while puffing up, and commodities rising as if leavened with it, till, suddenly, a demand for specie comes from abroad, and a panic ensues, and the first act closes with a general suspension of payments.

Gentlemen have more than once let fall, since this scheme has been in agitation, that in their judgment the issues of these banks should be deemed convertible, because the property pledged, especially the stocks, may always be converted. This shows plainly enough what convertibility means, according to their conception of it. And on their principle, any property which may be converted into cash with facility, is just as good a basis for issues as specie. Indeed one gentleman, an inhabitant of the west, and a strong and impatient advocate of this

bill, has declared on this floor that wheat was a better basis for bank issues, in his part of the state, than specie could be. Who can say he is wrong, if the principle of this bill is right?

But the glory of this project, in the estimation of gentlemen, is the security which it offers to the bill-holder; and as long as this point is gained, they can see no possible danger in any quarter. And in regard to my proposition, that the banks shall be required to keep a certain ratio of specie on hand, though told, over and over again, that this is designed chiefly as a means of limiting the volume of issues, they still insist upon it that it is all idle and useless—nay quite ridiculous—because the bill-holder is already made abundantly secure! They do not see, or they will not see, how deep a stake the community has in the question, whether we are to have a regulated and uniform currency, at all times convertible, and limited in volume to the true wants of business, or an unsteady and fluctuating currency, tending to ruinous expansions, and unsettling everything that is stable and valuable in society, habits as well as property, morals as well as business. They see one only possible evil growing out of bank issues—the losses of bill-holders by occasional bank failures—and they do not or will not remember that these losses, though sometimes severe and distressing, (and they ought therefore to be strictly guarded against,) are not to be compared with those which communities suffer from depreciated paper, consequent on expansions, from varying the terms of contracts, causing prices to fluctuate, and giving to all property as fickle and changeable a character as if it rested on no solid foundation whatever, but was the mere sport

of the wind or the tide. They seem to me to be smit with the love of property banks, and they can therefore see nothing excellent or desirable, in a system of banking, except security to the bill-holder. Security to the bill-holder—there is surely something, I know not what, about this security to the bill-holder, which has dazzled the vision of gentlemen; and left them less of the power of discrimination than they are used to exercise. Safety to the bill-holder, exclaimed an honorable and learned friend of mine the other day, has been the object of all the various guards heretofore thrown around the business of banking: and now that we have gained that point, now that the bill-holder is safe, let us do nothing which will go to regulate or control the discretion of the banker in any other particular! We shall have the best paper currency in the world, *because* it will rest on the basis of cash property, pledged for its redemption—a basis for issues better than specie can be, because, while the basis is specie, whenever the balance of trade is against us, the precious metals will flow out of the country, and leave our paper with nothing to stand upon!

Now I tell my honorable friend, and I tell all my friends on this floor, that, in my poor judgment, security to the bill-holder is a very good thing, but it is not every thing in a system of banking; and if this point only be cared for, while we neglect to make the community secure against the revulsions and losses consequent on a bloated condition of the currency, nay, while we ourselves are engaged in stimulating the creation of unlimited paper issues, I think we shall perform but a part, and a very small part too, of our duty to the people, and even that what we do, would be much better left undone.

Let gentlemen take the trouble to reflect a little on what will really be gained by their proposed security to the bill-holder. In the first place, the property pledge can have no tendency whatever to prevent an inflation of the currency, which is always a point of danger; on the contrary, in the absence of the specie check on issues, the tendency will be directly, as I think I have shewn, to produce such a result. Now, in this state of things, it would be some consolation to know, that this contrivance was likely at least to effect the particular object in view—namely, the security of the bill-holder. Will it do so? As much, certainly, as any such contrivance can—but can the actual bill-holder be made wholly secure by any invention of the sort? Let us look at this.

The property placed in pledge is to be the ultimate resort for the redemption of the bills. A single bank, for example, falls into difficulty, and comes to a sudden stand, with a million in circulation, scattered in every part of the state. Immediately the comptroller takes order for the disposition of the property in pledge, and the payment of the notes standing out; and who mainly will reap the benefit? Why, clearly, according to all experience, and from the necessity of the case, not the original holders of the paper at the failure, but those who have purchased it at a discount—not those who hold it as money, but those who hold it as merchandize—namely, the brokers. In case of a general suspension, or a general crash among the banks, following an inflation of the paper system, the same thing must happen. That very class of persons particularly, the indigent, whom you are most anxious to protect, would

be found to be just the least protected of all. They have this paper in possession, as money, and for immediate and necessary use. They are obliged to part with it, because their daily subsistence depends upon it, and they must let it go for what it is worth. And whatever gentlemen may think, the paper would be immediately and seriously depreciated, in any such event. The banks having failed, no amount of securities, though Ossa be piled on Pelion, would keep the bills at par, at least at first, and for sometime after the explosion. In remote parts of the state particularly, they would drop down to prices far below their nominal value, and be picked up by those who always have the means of speculating out of the necessities and misfortunes of the poor. And on the whole, I have no doubt that in every case of the redemption of these issues at the hand of the comptroller, much the larger part of them would be redeemed for the benefit of brokers. Is it worth while, I ask gentlemen, to pursue this object so strenuously, for the sake of such a result, and to pursue it, too, as is it seems to me to be pursued, regardless of evils of probable, if not inevitable consequence, and at any rate to the exclusion of considerations, connected with the subject, of vastly more moment. Is it worth while, I ask, to follow up this system of legislative quackery, for I cannot call it by a better name, and be forever prescribing for symptoms, when we might come at once to the disease? The best security, in my judgment, which bill-holders can possibly have, is in a system of banking, conducted, under legal regulations, on sound, well-known and indisputable principles. Compel the observance of these principles, which are few and easily understood, and



nothing will be left to complain of on the part of the bill-holder. He is safe, in the general safety of the system.

My plan for a general banking law would be exceedingly simple, and I believe entirely safe. In the first place, I would prefer to give proper corporate powers to associations for banking, instead of the somewhat awkward facilities afforded by this act ; and I see no constitutional impediment in the way of conferring such corporate powers by a general law. But if others do, so that such a law could not be passed, then I would consent to the formation of these joint-stock companies. Provision being made for the voluntary formation of Banking Associations, I would prescribe the terms on which they might establish banks of issue. The principal points of regulation would be, that there should be a loanable capital actually paid in ; that the issues should never exceed the amount of the capital ; that the monthly average of specie in vault should bear some fixed proportion to the circulation—perhaps twenty per cent ; and that ample returns should be made, with sufficient particularity, under oath, at short intervals, with provision for thorough inspection in case the least doubt or suspicion existed. I should depend on the specie basis to prevent over issues, believing that nothing else can check them effectually, and that this would do so, while at the same time room enough would be afforded for flexibility. In the very steadiness of the system which would thus be induced, I should find a valuable safeguard for the bill-holder. His direct safety would be found in the money securities of which the bank must be in possession, of double the value of all the bills in circulation, and in regard to which the holders of bills

would stand as preferred creditors. The securities taken for the capital loaned, and the securities taken for circulation, must both of course be applied to the redemption of bills, before any thing could be divided among the stockholders. The chances of loss to the holders of Bank of England notes, if they depended wholly on the securities taken for issues, have been calculated to be as one to three hundred thousand !

But, Mr. Chairman, in the present condition of things, and especially considering the present temper and constitution of the house, I shall propose no other radical change in the General Banking Law now before us, than such as is suggested in my printed amendments. I shall take it for granted that the main feature of this bill is to be preserved ; the pledge of property for issues ; and I shall rest all my hopes of safety to the community on the salutary check which the legal requisition of a specie basis will impose on the banks. Here I take my stand. The adoption of the proposition which I make to this effect, changes in my view, the whole character of the bill. It will place issues distinctly on another basis than that proposed in the bill, and on the right basis. With this basis assumed, we are no longer engaged in setting up property banks of issue, and providing for a supply of bills of credit. We shall have free banking, with the first and main principle of sound banking carefully preserved. On this principle I plant myself, and I shall cheerfully abide the issue both here and elsewhere, for the present time and for the future. With it, I am for the bill ; without it, I shall record my vote against it. I yet trust, somewhat confidently, that it will be adopted ; and though the prospect has heretofore

been dark and unpromising, yet I do not think that I deceive myself in taking courage from the gratifying attention and favor with which my remarks, extended to so unusual a length, have been received. I have strong hope, and strong ground of hope, that my amendment will prevail.

Some indication of the importance of my amendment in my own estimation, may be found in the labor which I have bestowed in endeavoring to satisfy this house of the dangerous character of the bill without it. In no degree can this bill receive a favorable consideration at my hands in its original shape. I am quite serious and sincere when I say that I regard it as an experiment on the currency, which would be likely to end in greater disaster to the good people of this state than any or all the government experiments of the last eight years. If it is to be tried as proposed, why be it so—personally I desire no part of the credit belonging to the measure; and I desire no friend or friends of mine, personal or political, to have any part of the credit. My solemn conviction is, that no political man, and no political party, could ever bear up under the burthen of such a measure. It cannot stand the test of examination, the test of principle, the test of time. It will fail, if attempted, as all plausible but unsubstantial theories and experiments do; it will fail, and the very success which it may have for a brief season, will only mark its downfall with the more notoriety, and the greater shame.

Let gentlemen remember, that it is one thing to be ingenious and inventive, and another to be wise. Let them remember the familiar story of Dædalus, an artist of surpassing skill and invention, and the most

useful man of his period, while he contented himself with employing his powers in the construction of the wedge, the axe, the wimble, and the sails of ships. He was at least innocent too, when he amused his countrymen with his moving statues, which seemed instinct with life. But when he attempted to set the laws of Nature at defiance; when he set himself at work to contrive his wings of feathers and wax, for himself and for Icarus, his son, he committed a gross and fatal error. The confiding and adventurous boy rose, as he should have known he would do, too high—too near the sun—and fell, never to rise again. Let gentlemen beware how they attempt to imitate this bad example, by supplying this young and adventurous people with their wings of feathers and wax. Be sure, we shall put them on if you furnish them to us, and we shall rise upon them, no doubt, to a high flight; and then the first fervid kiss of the risen sun, long before he shall have reached his meridian, will melt away the support on which we rest, and leave us to a precipitous fall, and a melancholy and cruel fate.

[The General Banking Law, with Mr. BARNARD'S amendments, being still under consideration in committee of the whole, and several gentlemen having spoken—some in answer to Mr. BARNARD—he (Mr. B.) spoke in reply to the following effect:]

Mr. Chairman: I shall not detain the committee with any further extended discussion of the points at issue, between myself and gentlemen who have been pleased to notice, and to favor me with an attempt to answer, my position and my former remarks. The positions ta-

ken by me were too plain to be misunderstood, or mystified. In general terms, they were these:

That what we want in this country is capital, and an extension of the credit system; but that this bill seems to contemplate only an extension of currency, and that at *the expense* of capital and the credit system.

That we already have a banking system in this state authorized to supply us with about thirty millions of paper, and if we want more currency than this, we may have it, by passing a general banking law, on a system analogous and auxiliary to the present.

That the effect, if not the object of this bill, if it shall pass without amendment, will be the establishment of banks to issue paper for circulation, resting on property as a basis, and not paper based on, or representing, coin.

That the only way in which you can have a safe and sound paper currency, is to secure that currency on a specie basis, and let it rest on convertibility, and not merely on property or credit.

That it is the duty of the state to provide for the people a local currency of uniform value.

Now I might appeal, I think, with safety, to any impartial auditor to say, whether I have been fairly met in this argument, and fairly answered. I might ask, which of my positions has been overturned, which of them weakened? There has been plenty of denunciation, some loud and vehement, if not angry, declamation, and other exhibitions, indicating real alarm for a favorite measure, and yet shewing a determination to carry a point by a display of boisterous courage, rather than of manly strength. Gentlemen have talked, a little grandiloquently, of the principles of free trade, of the wonder-

working power of credit, and of the absurdity of all hard money schemes; and we have had opened to us some ravishing views of the golden glories to be realized and enjoyed under this bill. But where have we been favored with argument, with critical examination and analysis, with sober views, with rational conclusions?

The house has been gravely told, amongst other things, that I have been entertaining it with the theories, the ever-varying theories, of political economy; that I have resorted to ancient and exploded systems, occasionally recognized perhaps in other countries and other times, but in no degree applicable to the altered state of things, at this day, and in this country. Indeed! And if I had had occasion to speak of the Corpernican system, or the law of gravitation, I should have been told, I suppose, that these were very good theories in the days of Galileo and Newton, and well enough even now possibly for Italy and England, but I must not attempt to impose such absurdities on the American people, as having any applicability to this climate and latitude, and especially at so late a period as this year of our Lord, one thousand eight hundred and thirty-eight! Let gentlemen name to me one doctrine or principle, one only, maintained by me, as belonging to the subject in hand, about which there have ever been two opinions, from reputable sources, on either side of the water—let them specify—put a finger on one—I ask for one only—and then they may talk of ever-varying theories, and exploded systems, with some shew of reason, and to some good purpose perhaps—but not till then.

Gentlemen will not listen to any proposition in regard to uniformity of value in the currency of the state, be-

cause that would be interfering with the freedom of trade. If the bills of country banks stand at a discount in the city, what then, says the chairman of the bank committee—are they not depreciated by a law of trade, and shall we attempt to legislate them up to par? So, then, currency is to be regulated solely by the laws of trade, is it? Government is no longer to have any control over it. Money is no longer to be money, but merchandize; and we, the legislature, are to authorize the creation of unlimited quantities of paper, which it is admitted will be depreciated at certain points, the moment it appears there, and give it up to the laws of free trade. Well, the country is, at this moment, enjoying the blessed benefits of this very freedom of trade in bank money. The notes of Philadelphia banks are worth three per cent less than the notes of New-York banks, and those of Mississippi, some of them, twenty-five per cent less. And this is free trade in banking and money! Sir, I had thought that the doctrine of the whigs was quite different from this. I had thought it was rather a distinguishing doctrine of theirs, just now, that it was the duty of the general government to provide for the people a medium, or money, of uniform value, for the convenience of payments in the discharge of contracts, and for equalizing exchanges, and not leave this important matter, as it is now, to the laws of free trade. Such, at least, is my doctrine; and I believe it to be the doctrine of the party of which I am a humble member. And since the care of the currency has been abandoned by the general government—abandoned to free trade—I think it imperiously the duty of the local governments

to legislate for uniformity in their local currencies—the laws of free trade to the contrary notwithstanding.

Mr. Chairman, this doctrine of free trade has been interposed as a sort of estoppel to all legislation, the object of which shall be to secure a specie basis for issues, and to limit and control their volume. From all sides we hear it repeated, that security to the bill-holder for *eventual* redemption, is the one thing, and the only thing needful. With most of those who hold this opinion, it rests simply on the false assumption, that society has no other interest than this to protect, in the case of a general license to issue currency—no other peril to encounter—no other possible danger to apprehend; as if such a thing as expansion, and the existence of bank paper practically inconvertible, and ruinously inflated, was never heard of, or as if the losses and general wreck which comes with such a condition of things, could be prevented or cured by this single provision of security to the bill-holder; as if the eventual redemption, in value, of a few millions in bills put forth as money, would make good all the losses, arising from fluctuations in prices, which would accrue on contracts, enterprises and speculations, to ten, twenty or fifty times that amount, and to which those very issues had stimulated; or as if such final payment of bill-holders, would repair the disastrous breach which would be made in public morals and public faith, in the universal sense of right and wrong, in that delicate perception of the nature and beauty of common honesty, and in that popular virtue, which no republican country can lose, and be safe! With most of those, I say, who have delivered their sentiments on this point, security to the bill-holder is the end of all things—



it makes every thing safe. But with a few, and with one honorable member in particular, whose position in this house makes his opinions of consequence, the doctrine maintained is not quite so blind, nor quite so tame. With them every thing is resolved into a question of free trade. To compel bankers to secure the holders of their paper is well enough. This violates no freedom of trade because there is no freedom or equality between the contracting parties. Men are *obliged* to take bank paper! But to allow bankers to issue paper, truly the representative of coin and truly convertible, and to restrain them from putting out any other kind of paper to circulate as money—this is a gross violation of the laws of free trade!

Well, I would respectfully ask gentlemen, in the first place, why do you insert or tolerate the insertion, in this bill, of a section requiring all bankers to pay their notes on demand in gold and silver? Is it not enough if they pay in value? May you not safely leave the community to take their paper, or not, on those terms? Why do you thus violate the laws of free trade? And besides, consider how useless it is. Do not the constitution and laws already require the discharge of all such contracts, if demanded, in gold and silver? And do you gain any thing by re-enacting provisions which already exist in the face of the laws of free trade? I aver, fearless of contradiction, that for all that is done in this bill at present towards securing convertibility, and a specie basis for issues, you would be quite as wise, and pursue your object much more directly, if you should strike out whatever there is in it relating in any way to gold and silver. It is only there to blind and mislead the public.

You do not add, in the least, by any thing inserted here, to the obligation, or the duty, of the banks to redeem their dues in specie when it is required; while you do lend your sanction to a violation of those laws of free trade which you seem to have taken under your special protection.

But, sir, it is as I have all along feared. There are gentlemen here, in this house, here to legislate for a great people, on this great interest—not many I hope—who go for free trade—free, unlimited, and unrestricted trade, in the matter of bank issues—on the single condition of making the bill-holder secure against eventual loss. This position has been distinctly avowed, and boldly maintained. This doctrine abandons, at once, all duty of government towards the currency, except as to the single point indicated; it does more, it denies that government has any right to interfere. It declares distinctly that all such matters as these; whether issues shall have the character of convertible paper, representing coin, or of commercial paper based on property, value, or general responsibility; whether they shall be limited or unlimited, with or without check; whether they shall be money or merchandize, at par value or depreciated, uniform or otherwise—these are all matters quite out of the cognizance of government, and belonging exclusively to the province and jurisdiction of the laws of trade. The doctrine not only leaves gold and silver to be dealt with as commodities, but it leaves bank paper currency, to be dealt with as a commodity. Paper is hereafter to bear value according to supply, just as any article of merchandize. It is to bear one price at one point in the state, and a different price at another

point; one price to-day, and another price to-morrow. It is to go into the market on a footing with cotton and corn, and be just as good a standard of value, and just such a common medium of payment and exchange as they—and no better. When the season is propitious and the crop abundant, prices will be knocked down; that is, in second hands, for in original hands, with the issuers, the price, namely the interest, will be the same; and when, from any cause, there is a short crop, prices will advance. And this is money on the free trade plan; and this is to be our money!

And, moreover, Mr. Chairman, this free trade in paper money, is the credit system, as gentlemen understand it, and the perfection of the credit system. The grand point they aim at, is to facilitate an exchange of credits, the credit of individuals for the credit of the banks in the shape of bank money; and it is this operation of exchanging credits, without stint or limit, that is to enrich all parties, revive and support business generally, and create a living soul of prosperity under the ribs of dead commerce. They care not what capital is, or how it may be defined—not they. Credit is capital enough for them, and paper issues are credit, and therefore capital. They do not want to borrow capital on the strength of credit; that would be a tame business; but they want to borrow credit—or rather they would make a fair and independent transaction of it, and pay up as they go along, by giving credit for credit, and adjusting the difference of value, if there be any, on the spot. Credit is especially the poor man's capital, they exclaim; not his own credit, but that which he borrows in the form of bank issues. Give us a supply of these,

and nobody can complain of the want of capital, nobody can be poor. Pour out bank issues till the lap of earth is full, and the land will overflow with riches. An article in itself utterly without value, contrived as an instrument to facilitate exchange of values, which is useless for any other earthly purpose, and wholly unproductive when thus employed—that article, increased and multiplied indefinitely beyond any possible use for it in its proper sphere, as a medium of exchange, fit for no other use, and put to no other use—that article, thus in excess, becomes capital, and profits, and wealth, making barrenness itself fruitful, and sterility rich, wherever it flows, and in exact proportion to the copiousness with which it is showered on the community. And this is the credit system, according to the notions of gentlemen, and the glorious effects of free trade in credit and paper money !

Sir, every thing which has fallen from gentlemen indicates clearly to my mind, that they are indulging the dangerous notion that paper can well enough take the place of specie as an *independent substitute* for money. They will do nothing towards securing a specie basis for circulation by law, because gold and silver are commodities, and nothing but commodities, and must be left free to go wherever there is a demand for them ; and they will not have a paper circulation that is to expand and contract as specie flows in or flows out. They must have it based on property put in pledge, which cannot flow out after it has once come in, and then the currency will stand firm and full, no matter what becomes of the specie ! And then to reconcile us to the adoption of this paper money system, we are informed

that all our alarms about expansions and contractions are quite useless, because the precious metals have been found to be more fluctuating than any thing else ever used as money. A remarkable fact certainly, and proved in a most remarkable way—proved by the wonderful discovery of an extraordinary variation in the price of *wheat in a single year in England*—probably in the time of the Crusades. And besides, say they, we *want* expansions of paper. Gentlemen tell us that we have never had enough of it, and they seem to think we never can have, till we shall sever all connexion and dependence between specie and paper. And finally we are told again, that the expansion of paper, is only the expansion of the credit system, and, of course, so far from being dreaded and deprecated, should be greatly desired. Mr. Chairman, who can hear such sentiments coming from respectable sources, who can contemplate the issue of such doctrines if once they take root and prevail, without amazement, without grief, without deep concern and alarm?

A single point presented by the honorable chairman of the bank committee, in regard to the character of the proposed banks, under this bill, deserves attention. He finds a parallel in the bank England, and so do I. It is true, the whole capital of that bank is perpetually on loan to the government, which, therefore, is the debtor of the bank to that amount, and becomes in effect the guarantor of the bills in circulation; just as in our stock banks, the holders of bills would have the pledge of government securities. But I ask my friend if the capital of the bank of England, thus loaned, or the securities taken for it, are in any manner the basis of its issues?

Once it might have been so ; but a suspension of specie payments for near a quarter of a century, by that bank, was experience and lesson enough for her, and for the people of England. Since the time of that suspension, the government of that institution has given to it a law, which is observed with great strictness, requiring that the proportion of bullion in bank to its cash liabilities, including deposits, shall not be less than one for three. All that I ask is, that the principle of that rule shall be adopted and enforced here ; and the utmost extent to which I have proposed to go, has been to fix the proportion of specie to circulation, not including other liabilities, at one for five. But this, it seems, is wholly inadmissible, as it would seriously interfere with free trade in banking, and in the expansion and use of paper issues, which gentlemen are pleased to denominate credit and the credit system !

But, Mr. Chairman, I shall not pursue the discussion. Let us come to the vote. My own opinions are before the house and will be before the country. So are, and will be, the opinions of gentlemen who insist upon the bill, and nothing but the bill. Let us have the vote ; and whatever may be the issue here, or the more authoritative verdict elsewhere, I am ready for it, and shall cheerfully abide by it.

Before I sit down, however, I have a word to say, in all candor, to my friend from New-York, the honorable chairman just referred to, for whom I entertain, and am sure I always shall entertain a very high respect, and none other than the kindest feelings. My worthy friend commenced his brilliant speech in reply to me, in a strain somewhat unusual, if not discourteous ; not certainly

either in as good taste, or in as good temper as we are accustomed to expect, and have a right always to expect from him. But first let me make a confession of sins on my part. Some few days ago, on the same subject, I treated the gentleman harshly. I was sorry for it, and I told him so, as soon as it was over. I had felt deeply, and I expressed myself strongly—too strongly perhaps. I had listened to sentiments, which, coming as they did from him, occupying a position at the head of the committee on banks, I thought were too likely to be mistaken for the sentiments of this house, if they should go forth without remark. I thought them not only mistaken, but very mischievous, and I meant, for myself, to disclaim them in very decided terms. In doing this, I was wrong, if I allowed myself to be betrayed into using the language of rebuke or reproach. I had no right to do so.

Now, I could wish that this passage had been entirely forgotten, and that my friend had approached his reply to my speech with different feelings from those which seemed to possess him at the moment. I could wish he had thought he could afford to let me enjoy the innocent vanity of believing that I had not made an utter failure in my attempt; that I had not been wholly unsuccessful; and, if he could have gone a little out of his way, and bestowed a word of commendation on my effort, in a very cautious manner, it would have been gratefully received. But I was not so fortunate. On the contrary, I was told of several things very disagreeable for a gentleman to hear of himself; as that I had wasted the time of the house for two or three days, without once having touched the merits of the subject.

in hand ; that I had stood up before the house to claim the merit of superior wisdom—and the like. Now, supposing all this to be true, it was very hard to be obliged to sit here, in such a presence, and be told of it. And then to be compared to the mad astronomer in *Rasselas*, who fancied that he had the responsible charge of the weather on his hands—that was the unkindest cut ! And the worst of it is, I am afraid there is some parallel between my case and that of the philosopher. He, I think, had succeeded, as he supposed, in acquiring much power over the weather and the seasons. The sun listened to him, and passed from tropic to tropic by his direction ; the clouds poured their waters, and the Nile overflowed, at his command ; he could restrain the rage of the dog-star, and mitigate the fervors of the crab ; but, unhappily, he could not control the winds—the winds would not obey him. Well, sir, am I not much in the same predicament ? I think I could have stood up against what there was of reason or argument in my friend's speech ; if there had been nothing else in it, I should even have hoped to save my poor amendment. But who or what could stand the wind, the storm, the tempest of passion and declamation, with which I was assailed ? Yes, sir, if I could have controlled and restrained the wind, I should deem myself safer and more fortunate than I now do.

But let that pass. My honorable and talented friend favored us, in the course of his speech, with a burst of passionate and splendid eloquence, on the wonder-working power of credit, and the credit system. It was a theme worthy of him, and he did himself excellent justice in the management of it. Only it is a pity he



should so utterly mistake what credit is. On such a theme, and inspired by his example, I could almost hope to be eloquent myself. Contemplating the certain glories of our beloved state and country, under a proper use of loanable capital, and an extension of the true credit system; the elements of prosperity all set in motion; human hands and human heads all busy; the winds laboring for us; water laboring for us; machinery at work; and steam at work, on the earth, and in the earth, and on the waters—with these things in contemplation I might almost venture myself to attempt to rise to a lofty and fervid strain of observation and remark. But, sir, I shall make no such attempt. It is not my vocation, and I yield the palm herein, to my friend from New-York. I trust it is not necessary for either of us to make any such display, for the sake of proving how ardently we love our country. Yet are such things sometimes done; and when one person attempts it, others are apt to attempt it also. Does my friend remember the manner in which Hamlet accosted Laertes, when he found him making a somewhat extravagant exhibition of his love for the poor Ophelia, leaping in her grave, and calling on the standers-by to

——“pile their dust upon the quick and dead,

“Till of that flat a mountain they had made,

“To o’ertop old Pelion?”

Said Hamlet:

“I lov’d Ophelia; forty thousand brothers

“Could not, with all their quantity of love,

“Make up my sum”——

“Dost thou come here to whine?

“To outface me with leaping in her grave?

“Be buried quick with her, and so will I;

"And, if thou prate of mountains, let them throw  
 "Millions of acres on us, 'till our ground,  
 "Singeing his pate against the burning zone,  
 "Make Ossa like a wart! Nay, and thou'lt mouth,  
 "I'll *rant* as well as thou."

Now, I shall not say, that my worthy friend, in the passionate and eloquent display made by him of his zeal for the prosperity of the state, attempted to play Laertes in his speech; but I will say, if he had done so, I should not follow him by enacting Hamlet. I could have no controversy of that sort with him—no, nor of any sort, except it be in a generous contest which shall serve the great interests of the people most faithfully, wisely, and successfully, in our humble place here—which shall most effectually contribute, by his labors and his counsel, to advance their true and lasting happiness, prosperity and glory.

# APPENDIX.

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[The following is the General Banking Law, as it finally passed both Houses of the Legislature.]

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## AN ACT

TO AUTHORIZE THE BUSINESS OF BANKING.

Passed April 18, 1838.

*The People of the State of New-York, represented in Senate and Assembly, do enact as follows :*

§ 1. The comptroller is hereby authorized and required to cause to be engraved and printed in the best manner to guard against counterfeiting, such quantity of circulating notes, in the similitude of bank notes in blank, of the different denominations authorized to be issued by the incorporated banks of this state, as he may from time to time deem necessary to carry into effect the provisions of this act, and of such form as he may prescribe. Such blank circulating notes shall be countersigned, numbered and registered in proper books to be provided and kept for that purpose in the office of said comptroller, under his direction, by such person or persons as the said comptroller shall appoint for that

purpose, so that each denomination of such circulating notes shall all be of the same similitude and bear the uniform signature of such register, or one of such registers.

§ 2. Whenever any person, or association of persons formed for the purpose of banking, under the provisions of this act, shall legally transfer to the comptroller any portion of the public debt now created or hereafter to be created by the United States or by this state, or such other states of the United States as shall be approved by the comptroller, such person or association of persons shall be entitled to receive from the comptroller an equal amount of such circulating notes, of different denominations, registered and countersigned as aforesaid; but such public debt shall in all cases be, or be made to be, equal to a stock of the state producing five per cent per annum; and it shall not be lawful for the comptroller to take any stock at a rate above its par value.

§ 3. Such person or association of persons are hereby authorized, after having executed and signed such circulating notes in the manner required by law to make them obligatory and promissory notes payable on demand, at the place of business within this state, of such person or association, to loan and circulate the same as money, according to the ordinary course of banking business as regulated by the laws and usages of this state.

§ 4. In case the maker or makers of any such circulating note, countersigned and registered as aforesaid, shall at any time hereafter on lawful demand during the usual hours of business, between the hours of ten and three o'clock, at the place where such note is paya-

ble, fail or refuse to redeem such note in the lawful money of the United States, the holder of such note making such demand may cause the same to be protested for non-payment by a notary public, under his seal of office in the usual manner; and the comptroller, on receiving and filing in his office such protest, shall forthwith give notice in writing to the maker or makers of such note to pay the same; and if he or they shall omit to do so for ten days after such notice, the comptroller shall immediately thereupon, (unless he shall be satisfied that there is a good and legal defence against the payment of such note or notes,) give notice in the state paper that all the circulating notes issued by such person or association will be redeemed out of the trust funds in his hands for that purpose; and it shall be lawful for the comptroller to apply the said trust funds belonging to the maker or makers of such protested notes, to the payment and redemption of such notes, with costs of protest, and to adopt such measures for the payment of all such circulating notes put in circulation by the maker or makers of such protested notes, pursuant to the provisions of this act, as will, in his opinion, most effectually prevent loss to the holders thereof.

§ 5. The comptroller may give to any person, or association of persons, so transferring stock in pursuance of the provisions of this act, powers of attorney to receive interest or dividends thereon, which such person or association may receive and apply to their own use; but such powers may be revoked upon such person or association failing to redeem the circulating notes so issued, or whenever, in the opinion of the comptroller, the principal of such stock shall become an insufficient security;

and the said comptroller, upon the application of the owner or owners of such transferred stock in trust, may, in his discretion, change or transfer the same for other stocks of the kinds before specified in this act, or may re-transfer the said stocks, or any part thereof, or the the mortgages, or any of them, hereinafter mentioned and provided for, upon receiving and cancelling an equal amount of such circulating notes delivered by him to such person or association, in such manner that the circulating notes shall always be secured in full, either by stocks, or by stocks and mortgages, as in this act provided.

§ 6. The bills or notes so to be countersigned, and the payment of which shall be so secured by the transfer of public stocks, shall be stamped on their face, "Secured by the pledge of public stocks."

§ 7. Instead of transferring public stocks as aforesaid to secure the whole amount of such bills or notes, it shall be lawful for such person or association of persons, in case they shall so elect before receiving any of the said bills or notes, to secure the payment of one half of the whole amount so to be issued, by transferring to the comptroller bonds and mortgages upon real estate, bearing at least six per cent interest of this state, payable annually or semi-annually; in which case all such bills or notes issued by the said person or association of persons, shall be stamped on their face, "Secured by pledge of public stocks and real estate."

§ 8. Such mortgages shall be only upon improved, productive, unincumbered lands within this state, worth independently of any buildings thereon, at least double the amount for which they shall be so mortgaged; and

the comptroller shall prescribe such regulations for ascertaining the title and the value of such lands as he may deem necessary; and such mortgages shall be payable within such time as the comptroller may direct.

§ 9. The comptroller may, in his discretion, reassign the said bonds and mortgages, or any of them, to the person or association who transferred the same, on receiving other approved bonds and mortgages of equal amount; and when any sum of the principal of the bonds and mortgages transferred to the comptroller shall be paid to him, he shall notify the person or association that transferred the bonds and mortgages of such payment, and may pay the same to such person or association on receiving other approved bonds and mortgages of equal amount.

§ 10. The person or association of persons assigning such bonds and mortgages to the comptroller, may receive the annual interest to accrue thereon, unless default shall be made in paying the bills or notes to be countersigned as aforesaid, or unless in the opinion of the comptroller the bonds and mortgages or stocks so pledged shall become an insufficient security for the payment of such bills or notes.

§ 11. In case such person or association of persons shall fail or refuse to pay such bills or notes on demand, in the manner specified in the fourth section of this act, the comptroller, after the ten days' notice therein mentioned, may proceed to sell at public auction the public stocks so pledged or the bonds and mortgages so assigned, or any or either of them, and out of the proceeds of such sale shall pay and cancel the said bills or notes, default in paying which shall have been made as afore-

said ; but nothing in this act contained shall be considered as implying any pledge on the part of the state for the payment of said bills or notes beyond the proper application of the securities pledged to the comptroller for their redemption.

§ 12. The public debt and bonds and mortgages to be deposited with the comptroller by any such person or association, shall be held by him exclusively for the redemption of the bills or notes of such person or association put in circulation as money, until the same are paid.

§ 13. The plates, dies and materials to be procured by the comptroller, for the printing and making of the circulating notes provided for hereby, shall remain in his custody and under his direction ; and the expenses necessarily incurred in executing the provisions of this act, shall be audited and settled by the comptroller, and paid out of any moneys in the treasury not otherwise appropriated ; and for the purpose of reimbursing the same, the said comptroller is hereby authorized and required to charge against and receive from such person or association applying for such circulating notes, such rate per cent thereon as may be sufficient for that purpose, and as may be just and reasonable.

§ 14. It shall not be lawful for the comptroller, or other officer, to countersign bills or notes for any person or association of persons, to an amount in the aggregate exceeding the public debt, or public debt and bonds and mortgages at their value, as provided in the second section of this act, deposited with the comptroller by such person or association ; and any comptroller or other officer who shall violate the provisions of this section shall, upon conviction, be adjudged guilty of a misdemeanor,



and shall be punished by a fine not less than five thousand dollars, or be imprisoned not less than five years, or by both such fine and imprisonment.

§ 15. Any number of persons may associate to establish offices of discount, deposite and circulation, upon the terms and conditions, and subject to the liabilities prescribed in this act; but the aggregate amount of the capital stock of any such association shall not be less than one hundred thousand dollars.

§ 16. Such persons, under their hands and seals, shall make a certificate which shall specify:

1. The name assumed to distinguish such association, and to be used in its dealings:

2. The place where the operations of discount and deposite of such association are to be carried on, designating the particular city, town or village:

3. The amount of the capital stock of such association, and the number of shares into which the same shall be divided:

4. The names and places of residence of the shareholders, and the number of shares held by each of them respectively:

5. The period at which such association shall commence and terminate; which certificate shall be proved or acknowledged and recorded in the office of the clerk of the county where any office of such association shall be established, and a copy thereof filed in the office of the secretary of state.

§ 17. The certificate required by the last preceding section to be recorded and filed in the offices of the clerk of the county and secretary of state as aforesaid, or copies thereof, duly certified by either of those officers, may

be used as evidence in all courts and places for and against any such association.

§ 18. Such association shall have power to carry on the business of banking, by discounting bills, notes and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins and bills of exchange, in the manner specified in their articles of association for the purposes authorized by this act; by loaning money on real and personal security; and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier, and such other officers and agents as their business may require, and to remove such president, cashier, officers and agents at pleasure, and appoint others in their place.

§ 19. The shares of said association shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be agreed on in the articles of association; and every person becoming a shareholder by such transfer, shall, in proportion to his shares, succeed to all the rights and liabilities of prior shareholders: and no change shall be made in the articles of association by which the rights, remedies or security of its existing creditors shall be weakened or impaired. Such association shall not be dissolved by the death or insanity of any of the shareholders therein.

§ 20. It shall be lawful for any association of persons organized under this act, by their articles of association, to provide for an increase of their capital and of the

number of the associates, from time to time as they may think proper.

§ 21. Contracts made by any such association, and all notes and bills by them issued and put in circulation as money, shall be signed by the president or vice-president and cashier thereof; and all suits, actions and proceedings brought or prosecuted by or on behalf of such association, may be brought or prosecuted in the name of the president thereof; and no such suit, action or proceeding shall abate by reason of the death, resignation or removal from office of such president, but may be continued and prosecuted according to such rules as the courts of law and equity may direct, in the name of his successor in office, who shall exercise the powers, enjoy the rights, and discharge the duties of his predecessor.

§ 22. All persons having demands against any such association, may maintain actions against the president thereof; which suits or actions shall not abate by reason of the death, resignation or removal from office of such president, but may be continued and prosecuted to judgment against his successor: and all judgments and decrees obtained or rendered against such president for any debt or liability of such association shall be enforced only against the joint property of the association, and which property shall be liable to be taken and sold by execution under any such judgment or decree.

§ 23. No shareholder of any such association shall be liable in his individual capacity for any contract, debt or engagement of such association, unless the articles of association by him signed shall have declared that the shareholder shall be so liable.

§ 24. It shall be lawful for such association to pur-

chase, hold and convey real estate for the following purposes :

1. Such as shall be necessary for its immediate accommodation in the convenient transaction of its business ; or,

2. Such as shall be mortgaged to it in good faith, by way of security for loans made by, or moneys due to, such association ; or,

3. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings ; or,

4. Such as it shall purchase at sales under judgments, decrees or mortgages held by such association.

The said association shall not purchase, hold or convey real estate in any other case or for any other purpose ; and all conveyances of such real estate shall be made to the president, or such other officer as shall be indicated for that purpose in the articles of association ; and which president or officer, and his successors, from time to time may sell, assign and convey the same, free from any claim thereon, against any of the shareholders, or any person claiming under them.

§ 25. Upon the application of creditors or shareholders of any such association, whose debts or shares shall amount to one thousand dollars, and stating facts, verified by affidavit, the chancellor may, in his discretion, order a strict examination to be made by one of the masters of his court, of all the affairs of such association, for the purpose of ascertaining the safety of its investments, and the prudence of its management ; and the result of every such examination, together with the opinion of the master and of the chancellor thereon, shall be pub-

ished in such manner as the chancellor shall direct, who shall make such order in respect to the expenses of such examination and publication as he may deem proper.

§ 26. Such association shall, on the first Mondays of January and July in every year after having commenced the business of banking as prescribed by this act, make out and transmit to the comptroller, in the form to be provided by him, a full statement of the affairs of the association, verified by the oaths of the president or cashier, which statement shall contain,

1. The amount of the capital stock paid in according to the provisions of this act, or secured to be paid :

2. The value of the real estate of the association ; specifying what portion is occupied by the association as necessary to the transaction of its business :

3. The shares of stock held by such association, whether absolutely or as collateral security ; specifying each kind and description of stock, and the number and value of the shares of each :

4. The amount of debts due to the association ; specifying such as are due from moneyed or other corporations or associations ; and also specifying the amount secured by bond and mortgage or judgment ; and the amount which ought to be included in the computation of losses :

5. The amount of debts due by such association ; specifying such as are payable on demand, and such as are due to moneyed or other corporations or associations :

6. The amount of claims against the association not acknowledged by it as debts :

7. The amount of notes, bills or other evidences of debt issued by such association :

8. The amount of the losses of the association; specifying whether charged on its capital or profits, since its last preceding statement, and of its dividends declared and made during the same period :

9. The average amount in each month during the preceding six months of the debts due to and from the association; the average amount of specie possessed by the same during each month, and the amount of bills and notes issued by such association and put in circulation as money, and outstanding against the association, on the first day of each of the preceding six months :

10. The average amount in each month during the preceding six months due to the association, from all the shareholders in the association, also the greatest amount due to the association in each of the said preceding six months, from all the shareholders in such association :

11. The amount which the capital of the said association has been increased during the preceding six months, if there shall have been any increase of the said capital; and the names of any persons who may have become parties to the said articles of association, or may have withdrawn therefrom since their last report.

It shall be the duty of the comptroller to cause the statement required to be made by this section, to be published in a newspaper printed in the county where the place of business of such association is situated, and in the state paper; the expense of which shall be paid by such association.

§ 27. If such association shall neglect to make out and transmit the statement required in the last preceding

section, for one month beyond the period when the same is required to be made, or shall violate any of the provisions of this act, such association may be proceeded against and dissolved by the court of chancery, in the same manner as any moneyed corporation may be proceeded against and dissolved.

§ 28. If any portion of the original capital of any such association shall be withdrawn for any purpose whatever whilst any debts of the association remain unsatisfied, no dividends or profits on the shares of the capital stock of the association shall thereafter be made, until the deficit of capital shall have been made good, either by subscription of the shareholders, or out of the subsequently accruing profits of the association; and if it shall appear that any such dividends have been made, it shall be the duty of the chancellor to make the necessary orders and decrees for closing the affairs of the association, and distributing its property and effects among its creditors and shareholders.

§ 29. Such associations shall be liable to pay the holder of every bill or note put in circulation as money, the payment of which shall have been demanded and refused, damages for non-payment thereof, in lieu of interest, at and after the rate of fourteen per cent per annum, from the time of such refusal until the payment of such evidence of debt, and the damages thereon.

§ 30. The president and cashier of every association formed pursuant to the provisions of this act, shall at all times keep a true and correct list of the names of all the shareholders of such association, and shall file a copy of such list in the office of the clerk of the county where any office of such association may be located, and also